ROMANÆ HISTORIÆ ANTHOLOGIA RECOGNITA ET AUCTA.

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AN

English EXPOSITION

OF THE

ROMAN

BIBL. CANT. ACAD.

ANTIQUITIES;

WHEREIN

Many ROMAN and ENGLISH

Offices are parallel'd, and divers obscure Phrases Explained.

For the use of *Abingdon* School.

Newly Revised and Enlarged by the Author.

LONDON,

Printed by *T. J.* for *Peter Parker*, and are to be sold at his Shop in *Popes-head* Alley, next to *Lombardstreet*, 1668.

ROMANÆ HISTORIÆ ANTIQUITIES:

Nearly Revised and Enlarged by the Author.

1169 i 14

VIRO
COLENDISSIMO
D. JOHANNI YOUNG
SS. THEOLOGIÆ DOCTORI
& Ecclesiæ *Wintoniensis* Decano
Ornatissimo.

Ευδαιμονέστατα διαγειν.

Vir Ornatissime,

NOn liberi quam libri pluribus exponi periculis solent, cum primum prodeant in lucem: utrisque pariter opus est tutelari aliquo numine obstetricante. Hoc olim sensit anthologia hæc nostra primum edita: idem sentit eadem in hodierna duarum sectionum, & capitulorum aliquot superfœtatione. Nacta igitur secundas suas cogitationes te ambit Patronum, qui facem aliquam mihi in his antiquitatibus ob ambulanit

bulanti prælusisti, & quem multum fuisse in studiis meis promovendis, palam, & sub Dio prædico, videbis me aliquoties alium a doctissimis viris, & ab illorum sententiis alienum: Veritate enim præponderante, nullus apud me Plato, nullus erit Aristoteles, (nolo ego istiusmodi insaniam insanire, utcunque splendidam & autoritativam:) Cæterum tacitus hoc facio, & apud me, citra omnem velitationis pulverem, raro admodum quovis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adversario aliquo eximio commissa, gloriolæ nescio quos fumos sibi pollicentur. Hæc scribendi ratio si tibi placeat, alios non moror, quibus si simplex veritas non arrisseret, cum magnis nominibus deviare per me licebit. Vale, & meas Musas, ut soleas, ama: illæ, quod jam faciunt, te colent semper, & omni obsequio prosequentur. Datum Abindoniæ 14. Calend. Decemb. Anno χριστιανῶν 1622.

Dignitati tuæ

multiplici nexu mancipatus,

Tho. Godwyn.

BENEVOLO LECTORI.

Εὐτραπελία Εὐκρίτου.

MIRARIS forsan & redarguis, quòd nondum desitum ab his elementaribus; quasi vita mihi vitalis foret, in his minutiis integram meam ætatem eludere, & votum unicum in his prævis studiis senium contrahere. Qui sic sentis, nec me satis noris; nec ludi literarii (pone lenocinium nominis, moletrinæ dices) iniquas leges, aut miserias quotidianas, & omnigenas. Sentio ego me in pistrinum damnatum, & cogita tu hanc Anthologiam è pistrino prodeuntem. Si minus placeat, illud dabis puerorum circumstrepentium susurris, inter quos nata est: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitum indies reducunt ad hæc studia, quæ alias jamdudum jussissem suas sibi res habere; Sic me amet Theologia, sacratior mihi pagina in votis, cùm hæc in manibus, ludo cogente. Interim te monitum velim, quæ accessere, non vulgaria, aut obvia, nec quæ vulgus hominum, aut docuit, aut didicit.

Vale.

A ſhort Table, ſhewing the Argument of every Book and Section.

Lib.

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   2. Of the general diviſions of the Roman People.

2. Of the Roman Religion. Sect.
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4. Of the art military, as it was practiſed by the Romans. Cap.
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   6. Of certain rewards, after the performance of any Noble Exploits.

THE ROMAN ANTIQUITIES Expounded in *English*.

LIB. I. SECT. I.

Of the Chief Parts of the City.

CAP. I.

De modo condendarum, delendarumq; urbium.

BEfore we handle the description of the particular places in the *Roman* City, it will not be amiss to premise somewhat concerning the ancient manner of building, and raising Cities. In the Building of Cities, the Founders thereof did usually consult with their Gods in their *Augural* observations; and *a* this course was observed by *Romulus* himself, in the first Foundation of *Rome*; After their *Augural*

a M. Tullius lib. 1. de divinat.

Augural obſervations, they marked out the place where the wall of the City ſhould be built, by plowing up the ground, and becauſe they left that ſpace of ground unplowed, lightly lifting the plough over it, where they appointed the Gate of the City, thence *à portando*, from carrying and lifting the plough, they called the Gate *Porta*. This cuſtome is fully deſcribed by *b Cato: Capiato augurio, qui urbem novam condebat, tauro & vaccâ arabat: ubi arâſſet murum faciebat, ubi portam volebat eſſe aratrum tollebat & portam vocabat.* *Virgil* alſo alludeth unto it,

b M. Cato in fragm.

Interea Æneas urbem deſignat aratro.

The manner hereof was, that he who held the plough, did caſt up the skirt of his gown on the right ſhoulder, and gird himſelf about, either becauſe this was the uſual habit of ſuch who performed holy Rites; in the number of which, this preſent action was reputed; or that he might the more readily addreſs himſelf to the buſineſs; or laſtly, that he might ſymbolically by that pacifical habit intimate, that the flouriſhing eſtate of a City, is not ſo much preſerved by war, as by peace. Hence *Ovid. l. 4. Faſtorum.*

Ipſe tenens ſtivam, deſignat mœnia ſulco,
Alba jugum niveo cum bove vacca tulit.

c Cœl. Rhod ant. l 26. c. 5.

The *c* like cuſtome was uſed alſo in the raiſing or demoliſhing of Cities, when they had been vanquiſhed by the enemies, which obſervation giveth light to that of *Horace. Lib.* 1. Od. 16.

——Urbibus ultimæ
Stetere cauſæ cùm perirent
Funditus, imprimeretque muris
Hoſtile aratrum exercitus inſolens.

CAP. 2.

De Monte Palatino.

TOuching the Name of *Rome*, from what occaſion the City ſhould be ſo denominated, divers Authours conceit it diverſly. *d* Some are of opinion, that this City was built long before *Æneas* came out of *Troy*, & was then called

d Vid. Ant. Conſtant. in Ovid. Faſt. l. 1

called by the Latines *Valentia*, which was a name of strength, whence *Evander* coming from *Italy*, called it *Roma*, from ῥώμη *Robur*. Others say, it was so called from *Ascanius* his daughter, whose name was *Roma*. But it is agreed upon by most Writers, that the Founders were *Romulus* and *Remus*, and from *Romulus* it was called *Roma*, not *Romula*, because the diminutive, *Romula*, might ominate less prosperity thereunto. e Some say, that he built it in form of a quadrangle, upon one onely hill, called *Mons Palatinus*. f Others say, that *Fabius* left *Rome* as it was first built, with the fields thereof, painted in the form of a bow, the river *Tiber* being the string thereof. Upon this *Palatine* hill, was always the Seat of the *Roman* Empire, which from the hill took the denomination of a *Palace*: and hence all g stately Buildings which we call *Palaces*, took their name, *Palatia*. This hill had his first appellation h *Balatinus à Balando*, from the bellowing of cattel pasturing there in former times, and afterwards the first letter being changed, it was called *Palatinus*: by the figure ωττισμὸν. *Virgil* seemeth to be of opinion, that the hill was called *Palatinus*, by *Evander*, in remembrance of his grand-father, whose name was *Pallas*, according to that

---*Posuere in montibus urbem*,
Pallantis proavi de nomine Pallanteum. Virg. Æncid. l. 8.

In process of time six other hills by several Kings of *Rome* were added; whereby the City, and the *Pomœrium*, that is, the territories of the City were enlarged: and *Rome* called *Urbs septicollis*, i. e. the City upon seven hills.

Sed quæ de septem totum circumspicit orbem
Montibus, imperii Roma dicumque, locus. Ovid. trist. Lib. 1. Eleg. 4.

Upon this *Palatine* hill also stood the *Asylum*, or Sanctuary of refuge, which *Romulus* opened i in imitation of *Cadmus*, who at the building of *Thebes* was said to have opened a Sanctuary of Refuge, whither whatsoever Ma-

e Rosin. ant. l. 1. c. 2.
f S. de jur. Rom. l. c. 2.
g Rosin. ant. l. 1. c. 4.
h Vid. Serv. in Æn. l. 8.
i Alex. Gen. die. l. 2. c. 10. ubi plura de Asylorum origine dicuntur. de Asylis.

lefactor could escape, were he bond or free, he was not to be punished. It was much like unto a custom of the people in the City of *Croton*, who flying unto the altars of their gods, obtained the forgiveness of faults not voluntarily committed. Whence these two phrases are expounded alike, *Ad te tanquam ad Asylum*, and *Ad te tanquam ad aram confugimus*, i. e. we flee unto thee as our onely refuge.

CAP. 3.
De Monte Capitolino.

THis hill was famous for three names: it was called *Capitolium*, *Mons Tarpeius*, and *Mons Saturni*. It was named *Saturn's* hill k from the heathenish god *Saturn*, who vouchsafed to undertake the protection of that place. It was named the *Tarpeian* hill l from *Tarpeia* one of the Vestal Nuns, daughter to the chief Keeper of the Capitol, (this hill being the Castle of Defence for the whole Town.) For this *Tarpeia* betrayed the Capitol into the enemies hands, bargaining to have the golden bracelets upon her enemies left hands, for this her treason. Now the enemies when they were admitted in, did not cast their bracelets alone, but their bucklers also upon her, through the weight whereof we was pressed to death: upon which occasion the whole hill was afterwards called *The Tarpeian Mount*; but more principally a certain rock of that hill called *Tarpeia rupes*, from whence malefactors were sundry times tumbled headlong. The same was likewise called the *Capitol*, because when the foundation of a certain Temple, built in the honor of *Jupiter*, was laid, a mans head, full fresh and lively, as if it had been lately buried, m yea hot blood issuing out of it, was found there. n *Arnobius* saith, that the name of this name being alive, was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

1. k Rosin. ant. l. 1. c. 5.

2. l Plutar. in Romulo.

3. m Dion. Halicar. l 4 n Lipi. de magni. ud. Rom. c. 5.

CAP.

CAP. 4.
De Colle Quirinali.

THis hill being in former time called *Agonalis*, then began to be called *Quirinalis*, when certain *Sabines*, called in latine *Curetes*, came and inhabited there, (truce being made between the *Romans* and the *Sabines*:) though ſome would therefore have it named *Quirinalis*, becauſe there was a Temple erected in the honour of *Romulus*, called alſo *Quirinus*. It was called in the time of the Emperors *Mon Cabellus*, that is, the horſe-hill, taking its denomination from two marble ſtatues of *Alexander* taming his horſe *Bucephalus*: which ſtatues *Conſtantine* the Emperor brought to *Rome*, and placed them in the midſt of certain Baths, which he made upon this hill. There do appear in this hill three riſings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of *o Roſinus*.

o Ant. Rom. l. 2. c. 6.

CAP. 5.
De Monte Cœlio.

THis hill hath his name from a certain *p* Captain of *Hetruria*, which aſſiſted *Romulus* againſt the *Sabines*. On this hill, King *Tullus Hoſtilius* erected ſtately edifices, which for a time ſerved as his Palace: but afterward they became the chief Councel-houſe, whether the *Senatours* aſſemble themſelves, for the determining of State-matters: and becauſe this *Curia*, did far exceed all others, therefore Authors many times uſe this word *q Curia* ſimply, without any adjunction, to ſignifie *Curiam Hoſtiliam*, as if there were no other. It much reſembleth our Privy-councel Chamber, in reſpect that none might ſit there but only *Senatours*; whereas in the Court-houſe, which *Pompey* built (being therefore called *Curia Pompeia*)

p Alex. Gen. dier. l. 6. c. 11

q Alex. Gen. dier. l. 1. c. 16.

r Rosin. ant. l. 7. c. 5. s Rosin. Ibid.

Pompeia) r other City Magistrates were admitted amongst the *Senatours*: and in *Curia Julia*, *id est*, the Court-house which *Julius* made, were examined s forraign matters, as Embassages: but in *Curia Hostilia* domestical matters only were treated of, and that only by the *Senatours*. t At this present time, this hill is beautified with many Christian Churches, as the Churches of Saint *Stephen*, S. *Paul*, and S. *John*, our Saviours Hospital, &c. u It was also called *Mons Querculanus*, from the abundance of Oakes growing there.

t Marlian. in Topog. Cosmog. l. 2. c. 9. u Alex. Gen. dier. l. 2. c. 11.

CAP. 6.
De monte Esquilono.

x Rosin. ant. l. 1. c. 8.

THis hill was so named *quasi* x *excubinus ab excubiis*, *id est*, from the night watching, which *Romulus* did undertake upon that, somewhat distrusting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillocks, named, *Gispius*, *Oppius*, and *Septimeus*.

CAP. 7.
De monte Aventino.

a Alex. Gen. dier. l. 2. c. 11.

THe *Aventine* mount, took his name a from *Aventinus*, a certain King of *Albanum*, which was there buried. Upon this hill stood *Hercules* his Altar, and certain Temples consecrated to *Juno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*, *id est*, *Venus*: whence the hill hath sometimes been called *Diana* her hill, and *mons Murcius*.

b Plutar. in Romulo.

Upon b this mount, *Remus* would have built *Rome*, and therefore it was called *Remonius mons*: but since, it hath been called *mons Rignarius*, as it appeareth by *Plut.* in the same place. It had moreover the name of the *Holy mount*, being called in Latine *Mons sacer*.

CAP.

CAP. 8.
De monte Viminali.

BEcause of the abundance of wicker twigs, which did grow upon this hill, it was called *Mons Viminalis*, *vimen* signifying a Twigge or Ozier. I am not ignorant, that some would have this hill to be named *Viminalis*, from *Jupiter Vimineus*, whereas *Jupiter* himself was named *Vimineus* from this hill, because he had here many Altars erected in the honour of him. Both this hill and *Jupiter*, were called *Fagutales*, from *sylva fagea*, *id est*, a cops of Beech-trees, which did grow thereupon. *Vid. Rosin. Antiq. lib. 1. cap. 9.*

CAP. 9.
De tribus collibus adjectis.

THree *c* other hills there were, which in processe of time were added unto the City; which partly, because they were not included within the *Pomœrium* so soon as the other, but chiefly because they were not of such note, therefore *Rome* retained the name *Septi-collis*. The first of those hills was called *Collis Hortulorum*, *id est*, the hill of Gardens, so tearmed because of the many Gardens near adjoyning. *d* Here was the *Cirque*, or the shew place of the strumpet *Flora*, which made the people of *Rome* heir to those goods which she had gotten by prostituting her body to young Gentlemen, leaving also a certain sum of money to procure a celebration of her birth-day: which because of her infamy, the people shaming to do, they feigned her to be the Goddesse of flowers, and that she must be first appeased, by sports and plays, performed in the honour of her, before the trees and fruits of the earth would prosper; *e* and they might gain the better credit unto this their Fable, they adde further, that she was once called *Chloris*, and was married

c Rosin. ant. l. 1. c. 11.

d Eutr. Lat. in Verrin. Orat. 7.

e Lactant. de fal. relig l. 1. c. 20.

ried unto *Zephyrus*, from whom by way of dowry ſhe received power over the flowers. The ſecond was called *Janiculus*, from *Janus* that two-faced God: who, as Writers teſtifie, was there buried. It did lye beyond the river *Tiber*, and hath now changed its name, being called from the yellow ſands, *Mons Aureus*, and through negligence of the Printer, *Montorius*, *id eſt*, the Golden Mountain. The third was famous for the many divinations and propheſies uttered upon it, and thence was it named *Vaticanus* from *Vaticinium*, a fore-telling. *f* It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

f Munſt. in ſuo Coſmog. l. 2 c. 8.

CAP. 10.
De Foro Romano.

Forum hath divers acceptions: ſometimes it is taken for a place of negotiation, or merchandiſing, which we call a *Market-place*: and being taken in this ſence, it hath commonly ſome adjective joyned with it, as *Forum boarium*, the Beaſt-market, *Forum piſcarium*, the Fiſh-market, *Olitorium forum*, the Herb-market: other times it is taken for any place, whereſoever the chief governour of a Province doth convocate his people together, there to give judgement according to the courſe in law: whence a man is ſaid, *Forum agere*, *g* when he keeps the *aſſizes*, and *Forum indicere*, when he appointeth the place where the *aſſizes* ſhall be kept. Thirdly, It is taken for a place, where controverſies in law are judicially determined, and Orations are had unto the people. At firſt, of this ſort were only three, *Romanum*, *Julium*, and *Auguſtum*, as is clearly evidenced by that of *Martial*.

g Hulſer. in Cic. l. 3. ep. fam 6.

Atque erit in triplici par mihi nemo foro.

Afterward the number was increaſed to ſix diſtinct *Forums*: one called *Forum Julium*, becauſe it was built by *Julius Cæſar*. A ſecond was added by *Octavius Auguſtus*, called therefore *Auguſti Forum*. The third *Forum*, was founded

founded by *Domitian* the Emperor: but by reason of his sudden death, *Nerva* had the finishing thereof. It had the name of *Forum Transitorium*, the transitory *Forum*, because there was *Transitus*, *id est*, a way or passage through it into three several Market-places. The same *Martial* called it sometimes *h Forum Palladium*, because in the middle thereof a Temple was erected in the honor of *Minerva*. A fourth was added by the Emperor of *Trajanus*, wherein was erected a stately Column or Pillar 140 cubits high, having all the noble exploits performed by *Trajanus* engraven on it: another was called *Salustii Forum*, because *Salust* bought it with divers Gardens adjoyning, which since have been called *Horti Salustini*. The last *Forum*, which indeed was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency, the *Forum*, as if there were no other *Forum*: where we must understand, that as often as *Forum* is used in this latter sense, namely, for a pleading place, it is so used figuratively, by the figure Synecdoche: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely, that *Chappel*, or great Building, which they called *Rostra*. *i* Round about this *Forum Romanum*, were built certain Trades-mens shops, which they termed *Tabernæ*, and also other stately buildings, called *Basilicæ Pauli*. Here was the *Comitium*, or Hall of Justice; the *Rostra*, *id est*, the Orators Pulpit; *Saturns* Sanctuary, or the common Treasure-house, and *Castors* Temple: of all which in their order.

h Lipsius de magnitud. Rom l. c 7.

i Hen. Sal. moto n Pancirol. lib. rerum deperdit cah. de Basil. & Taber.

CAP. II.
De Basilicis.

BAsilicæ were upper buildings, of great state and much cost, being supported with *Pilæ*, *id est*, flat-sided pillars; and having underneath them walks, much resembling our Cloisters, saving the *Intercolumnia*, or space between

tween the pillars lay open unto the very ground. That they were upper buildings may be collected by the custome of many men, which were wont to walk under those Basilical buildings, and therefore were called *Subbasilicani* by *Plautus*. The use of these were principally for the *k* Judges to sit in judgement: but in their absence it was lawful for Merchants to deal in their businesses. Those of chief note were three, thus named, *Pauli*, *Porcia*, and *Julia*.

k Sigon de judiciis, l. 1. c. 28.

CAP. 12.
De Comitiis.

l Sigon. de jud. l. 1. c. 7.

Comitium l was a part of the *Forum Romanum*, being a great large hall of justice, which for long time was open at the top, having no covering, and for that reason the assemblies were often dissolved in rainy, or unseasonable weather. In it stood the *Tribunal*, being a place erected up on high, in form of our pulpits, but many degrees larger, and in the midst thereof, the *Sella Curulis*, *id est*, the Ivory chair, from whence the chief Magistrate administred justice; other inferiour Magistrates sitting on Benches on each side, which were called *Subsellia*, because they were lower than the Tribunal. Those which sate upon these Benches had power *cognoscere*, but not *pronunciare*; much like to our Justices of Assises, which may examine or inform against a malefactor, but not condemn him. Where we may observe the difference between *Comitium*, signifying such an edifice, to building, and *Comitia*, signifying the *Roman* Assemblies: both being called *à coeundo*. This hall was many times called by the name of *Puteal Libonis*. The reason of which name is rendred thus by *m* some. That in this *Comitium Attius Navius* did once with a Razor cut in two a Whetstone, and in memory thereof, his Statue was erected, with an Hat upon his Head, for *Puteal* properly doth signifie the Cover of a Well, but in a large acception, it

m Cœl. Rhod. l. 10. c. 17.

signifieth

ſignifieth a broad-brimmed hat, as *Cœlius Rhodiginus* noteth in the ſame place. *n Cicero* toucheth this: *Cotem illam, & novaculam defoſſam in comitio, ſupraque impoſitum Puteal acceptimus.* But why it ſhould be called *Puteal Libonis*, is yet doubtful, except haply *Libo* was the firſt erector of this ſtatue. That it was a common Court, and known place of Juſtice, *Horace* witneſſeth: *Roſcius orabat, adeſſes ad puteal cras.*

n Cic. de divi. dat.

CAP. 13.
De Roſtris.

NExt to the *Comitium* ſtood the *Roſtra*, a goodly fair Edifice, in manner of the body of a Cathedral Church: In it ſtood an Orators Pulpit, deckt and beautified with the ſtems of many Ships; which the *Romans* got from the people of *Antium*, in a memorable battel upon the Sea: and *o* hence from thoſe Ship-beaks, called in latine *Roſtra*, hath this place taken its name. It may be Engliſhed, the great Oratory, or place of *Common-plea.*

o Hubert. in Cic. ep. lib. 8. ep. fam. 1.

CAP. 14.
De Templo Caſtoris.

ANother part of the *Forum* was a Sanctuary built in the honour of *Caſtor* and *Pollux*: the reaſon thereof was becauſe they appeared unto the *Romans* in the Latine war, in the likeneſſe of two Angels ſent from Heaven to lead the *Roman* army, and to aſſiſt the Romans againſt the *Latines*: who being vanquiſhed, they ſuddenly were departed out of the field, none knowing how: and even in the ſame moment they appeared upon their ſweating Horſes unto the *Roman* Citizens in the *Forum*, who taking them for Souldiers, demanded what news they brought home from the Camp; they replyed, that the *Romans* were Conquerours: which newes being delivered, they ſuddenly vaniſhed, and were ſeen no more.

Upon this occasion did *A. Posthumius* being at that time *Dictator*, build a Temple in that place of the *Forum*, where they were seen in honour of them both. Although in the after Ages, it had the name only of *Castors* Temple. Whence arose the jest of *M. Bibulus*, against his fellow Consul *Julius Cæsar*, saying; it fared with him, as it did with *Pokux*; *id est*, as this Temple which was erected in the honour of both the brethren, carried the name only of *Castros* Temple; so the great expences in exhibiting shews in the time of their Consul-ship, though they were deeper on *Bibulus* his side, yet *Cæsar* carried away all the thanks, and credit. In so much, that the People being wont to subscribe the names of both Consuls at the end of their Deeds, and Charters, for a Remembrance of the Year; that year they wrote, such a thing done; not *Bibulus* and *Cæsar*, but *Julius* and *Cæsar*, being Consuls.

CAP. 15.

De æde Saturni.

q Plutarch in Publicola.

SAturns Sanctuary q was the Common Treasure-house wherein the Subsidie Money which the Commons paid unto the Treasurers, called *Quæstores*, was to be laid up, whereof diverse Conjecture diversly. *Alexander Neop.* r saith, that *Saturne* found out the use of brasen money: and therefore this Temple might be thought the fittest place for the Treasury. *Plutarch* thinketh rather, that the making of the Treasury in that place did allude to the integrity of time, wherein *Saturne* reigned, being the Worlds Golden Age. s But the most received opinion, is the strength of the Place, whereby it was the safer from Theeves. The Temple, by reason of the use it was put unto, was called *ærarium* from *æs*, *id est*, Brasse: Which name now is common to all Treasure-houses; for that the first money used by the *Romans* was of that mettall, until the year of *Rome*, 485. (as *Pliny* wit-

r Alex. Gen. dier. l. 4. c. 15.

s Alex. Gen. dier. l. 2. c. 2.

witnesseth, *lib. 3. cap. 33.*) t Some are of opinion, that before the use of brass, they made mony of leather: whence *Numa Pompilius* is said to have given leather money in a dole unto the people. Touching their order observed in the Treasury, we must understand that their care in providing against suddain dangers was such, that they laid aside the twentieth part of their receipts, which they u called *Aurum vicesimarium*, *Incensimarium*, & *Cimiliarchium*, into an inner Chamber or more sacred room, named in Latine *ærarium sanctius*. x We may read also of a third Treasury called *Ærarium militare*, wherein *Augustus* had appointed that the twentieth part of certain Legacies should be laid up to defray charges in extraordinary Wars: where it lay so priviledged, that it was a capital crime to use any of it, but in extream and desperate necessity. Notwithstanding, howsoever it was used as a Treasure-House x yet divers Authors testifie that the Acts of their Senate, the Books of Records, together with such Books, as were for their immeasurable bigues, called *Libri Elephantini*, wherein all the names of their Citizens were registred, and also their Military Enfignes, were contained there. y And from those Statute Books called *Tabulæ Publiæ*, this Treasury was also called *Tabularium*, because they were laid up there.

t Alex. Genial. dier. l. 4. c. 15.

u Alex. Genial. dier. l. 2. c. 2.

x Servius l. 2. Virg. Georg.

x Alex. Genial. dier. l. 2. c. 2.

y Plutarch in suis Problemat. vid. Franc. Sylvium in Catilinar. 4.

CAP. 16.

De Campo Scelerato

Campus Sceleratus, the field of Execution z lying within the City, joyn'd to the Gate *Collina*. It was the place where the Vestall Nuns, if they were deflowered, suffered punishment after this maner. There a was made a Vault under the Earth, with a hole left open above, whereby one might go down; and within there was a little couch with a burning lamp, and a few Victualls whether the Defiled Votary was to be brought, through the

z Munster. in sua Cosmog.

a Plutarch. in Numa.

Market-place in a litter ſo cloſed up with thick leather, that her mournings might not be heard to the moving of pity. She being thus brought to the place of execution, was let down by a ladder into a hollow Cave, and the hole preſently ſtopped. And the reaſon why they ſuffered ſuch a kind of death, was, becauſe they thought it not fit that they ſhould be burnt with fire, which kept not the ſacred fire, with greater Sanctity: and it was thought unlawfull to puniſh them by laying violent hands on them, becauſe they had in former time ſerved in ſo holy a function.

CAP. 17.

De Campo Martio.

b Roſin. anti. l. 6. c. 11.

THe *b Campus Martius*, otherwiſe called *Tiberinus*, (becauſe it was near the river *Tiber*) was given unto the *Roman* people, by *Caja Tarratia*, a Veſtal Virgin; but *Tarquinius Superbus*, the laſt King of *Rome*, did take it from the people, converting it to his own private uſe, inſomuch that he ſowed Corn there; which, when he was depoſed, the *Romans* did caſt into the river *Tiber*, judging it unfit that any man ſhould reap any commodity from ſo holy a ground. In proceſſe of time the ſheaves of Corn being ſtopped in a ſhallow ford of the River, became firm ground, and was called, *The holy Iſland*, or *Æſculapius his Iſland*; and preſently after the expulſion of *Tarquinius*, this *Campus Martius* was reſtored unto its former uſe. Beſides the natural pleaſantneſſe of the place it ſelf, it was beautified with many ornaments brought out of the *Capitol* (the *Capitol* being too full) as likewiſe with divers images of well deſerving men. Hither did the younger ſort of *Romans* come to exerciſe Chivalry, namely, the Horſe-race, the foot-race, wreſtling, fencing, caſting the bowl, the ſledge, the dart, uſing the ſling, the bow, vaulting, with ſuch like; and upon this occaſion it was dedicated unto *Mars*, and called by *Strabo*,

The

The Romans Great School of Defence. e The manner of vaulting, was in riding, to leap from one horse-back upon another, their custom being for their horse-men in war, to lead a spare horse in their hands, besides that whereon they did ride, that when the one did sweat, they leaped upon the others back; *à desiliendo*, those horses were called *Equi desultorii*: whence an unconstant, wavering, and unsetled minde, which *Seneca* calleth *Volaticum ingenium*. In this field were men of best note burned when they dyed. Here were the Kings, and other Magistrates at first created. In this d field of *Mars*, also was a place at first railed, like a sheep-pen, called therefore *Ovilia*, or *Septa*; but afterwards it was mounted with Marble-stone, beautified with stately Walkes and Galleries, and also with a Tribunal or Seat of Justice, within which precinct the people oftentimes assembled to give their suffrages toward the Election of Magistrates. The means of ascending up unto these *Ovilia* was not by stairs, but by many bridges made; for that time, every parish in the assembly of parishes, and every Tribe, or Ward in the assembly of the Tribes, and every hundred in the assembly of Centuries, having his Bridge: whence this Proverb was occasioned, *De ponte dejiciendus, id est*, he is debarred from giving his voice. e These Bridges were not made over any River, but over the dry Land; whence men were said to be cast, *Navat periclitarentur de vita, sed ne suffragarentur in Comitiis.*

e Cœl. Rhod. l. 21. c. 29, 30.

d Servius in Bucol. eclog. 1.

e Joan. Saxonius in Orat. pro S. Rosc.o.

CAP. 18.

De Circo Maximo.

AMongst other places where the *Romans* exhibited their Plays unto the People, the most remarkable was the great Cirque, or Shew-place, called in Latine *Circus Maximus*. It was a large piece of ground lying near that part of the *Aventine* Mount, where *Dia-*

na's

na's Temple stood. It was built by *Tarquinius Priscus*, with divers Gallaries round about it, from whence the Senators and Gentlemen of the City did behold the running with great Horses at Lists, the Fire-works, Tumbling, the bayting and chasing of wilde beasts, *&c.* In former time, all did stand on the ground, being sheltered from the rain by the help of boards upheld with forks, in manner of House-pentices: and this custom continued until the aforesaid *Tarquinius* erected those Galleries, called *Fori*, making thirty distinctions of them alotting every Ward or Company their several quarters, all the seats being able to contain one hundred fifty thousand parties. *f* Under these places, Cels, or Vaults where Women did prostitute their bodies, and would buy stollen goods, and for this reason *Horace* calleth it *Fallacem circum*, *i.e.* the deceitful Shew-place. There was at the one end of the Cirque certain barriers, *i. e.* places barr'd, or rail'd in, at which place the horses began the race: and at the other end was the mark, whither the horses ran, it was called in Latine *Meta*, and the Barriers *Carceres*, *à coercendo*. Whence we say *a carceribus ad metam*, *i.e.* from the beginning to the ending.

f Rosin. antiq lib 5 cap. 4.

CAP. 19.
De Theatro.

THe *Theatre g* hath his Name from the Greek Verb, θεάθαι, *id est*, to behold: because the People flocked thither, to behold Plays & Shews exhibited to them. The custom *h* first sprang from the Shepherds, who leading a contemplative life, were wont to compose Dialogues in metre, and at their leisure to recite them under the trees pressed down in form of an Arbor; whence this thretral term σκηνὴ hath bin deriv'd from σκιὰ a shadow, but afterward learned Poets, composed *Comedies* and *Tragedies*, which were publikely acted in the city upon a Stage: and though at first it was counted infamous to frequent them yet afterwards the Senators themselves, yea the Emperor,

g Joach. cameraf. in orat pro L. Flacco.
h Servius lib. 2 Virg. Georg.

ror, and all the Chief of *Rome* assembled thither. *i* Neither for a long continuance were there any Seats built, but Commons and Nobles, promiscuously one with another, all stood on the ground: insomuch that those which stood behind, raised up places with turfs of Earth, which gave the people occasion to call the place between those turffs, and the scaffold, *Cavea, id est*, a Cave or Den: yea the people that stood there, were so called from the place. Though the Theatre be now taken only for the Stage; yet then by it was understood the whole Room, where these Playes were Acted: and it had diverse parts, some proper to the Actors, some to the Spectators. To the Actors, first belonged the *Proscenium*, *id est*, the House whence the Players came: where they apparelled themselves, though sometimes it is taken for the Scaffold, or Stage it self: Secondly, the *Pulpitum*, *id est*, the Stage or Scaffold upon which they Acted: and Thirdly, the *Scena*, that is, the partition which was commonly made of wood, not of hangings. Now that they might change their Scene, according to their pleasure, they made it *k Versatilem*, *id est*, so that with Engines, it might upon the suddain be turned round, and so bring the Pictures of the other side into outward appearance: or otherwise *Ductilem*, *id est*, so that by drawing aside of some wainscot shuttles (which before did hide the inward painting) a new Partition might seem to be put up: And I think, because those Shepheards did Act no more at a time, than one of our Scenes; Hence have we distinguished our Playes into so many parts, which we call Scenes. The places which were proper to the Spectators were distinguished according to their degree and rank; for the remotest benches were for the *Commons*, and called *Popularia*; the next for the *Knights* and *Gentlemen* of *Rome*, and called therefore *Equestria*; the others wherein the *Senators* did sit, were commonly called *Orchestra*: this may be collected out of ** l Lipsius*, *m Cœl. Rhodiginus* saith, that the *Orchestra* was that place joyning

i Alex. Gen. dier. l. 5. c. 16.

k Servius l. 2. Virg. Georg.

* *l* Lipsius de amph. l. c. 14 *m* Cœl. Rhod. l. 8 cap. 8.

to

to the Stage, where *Chorus* ſpake to the people at the end of every act. Divers Authors are of *Cæl. Rhod.* his opinion, deriving the word *Orcheſtra*, from the Greek ὀρχέομαι to dance; but it ſeemeth more probable to have been a peculiar place, alotted for the Senators: *Ju. Sat.* 3

Æquales habitus illic ſimilemque videbis
Orcheſtram, & populum--id eſt, optimates & plebem.

The whole building made for entertainment of the Spectators, reſembled a triangle or wedge, ſharp towards the Stage, and broad behind, whence the whole was denoted by the name *Cuneus*; when *Cuneus* ſignified any particular place about the Theatre, then by it we are to underſtand that which formerly we call'd *Popularia*, the place for the meaner ſort of people; *n* whence when we would point out a baſe and ignoble perſon, *Inter cuneos reſidere dicitamus*. There was alſo another kind of ſcaffold, built quite round, made as it were of two Theatres joyn'd together, it was called *Amphitheatrum*, and differ'd from the Theatre, only as the full Moon doth from the half, or a compleat rundle from a ſemi-circle; it *o* reſembled an egg. Upon this kind of Scaffold did the Maſters of Defence play their Prizes; and wild beaſts were baited. *p In Amphitheatro gladiatorii ludi, & concluſarum ferarum venationes exhibebantur.* The *Amphitheatre* it ſelf, in the judgement of *Lipſius q* was termed *Cavea, ab interiore parte quæ concava erat*; and *Arena*, becauſe it was ſtrewed with gravel and ſand, that the blood of ſuch as were ſlain in the place, might not make the place too ſlippery for the Combatants. Hence cometh that phraſe, *In arenam deſcendere*, to go into the field; and the Combatants were thence called *Arenarii*. Here we muſt note, that howſoever the *Amphitheatre* was ſtrewed commonly with common and ordinary gravel, yet ſometimes in their extraordinary ſhews that gravel was covered, and as it were new coated, with the ſcrapings and duſt of ſome extraordinary ſtones, to add the greater luſtre unto it; thus much *r Pliny* intimateth, *Invenere & alium*

n Cæl. Rhod. lib. 8. c. 8.

o Turneb. ad verſ. lib. 5. c. 5

p Hoſp. de corrig. feſt.

q Lipſ. de Amphi. lib. c. & 3.

r Plin. lib 36.

alium usum ejus lapidis, in ramentis quoque Circum maximum sternendi, ut si in commendatione & candor, &c. Again, sometimes the hollow places or dens under the *Amphitheatre*, in which the wild beast were kept, and likewise men to be committed with wild beast, out of which these were let loose by the lifting up of trap doors to be hunted or baited upon the *Amphitheatre*, were called *Cavea*. For we must know that the *Amphitheatre* was full of hollow passages for many reasons, as for the convenient keeping of wilde beasts and beastiaries, so sometime for the better conveying of waters thither, by the means whereof *f* real ships and Sea-skirmishes were oftentimes exhibited upon the *Amphitheatre*.

f Suetonius in Domitian.

CAP. 20.

MOreover for the better understanding of Classical Authors, it will not be impertinent to point at the general name by which the Religious places were call'd; and to declare the proper acception of each name: the names being these, *Templum, Fanum, Delubrum, Ædes sacra, Pulvinar, Sacrarium, Lucus, Scrobiculus, Ara, Altare, Focus.*

De Templo.

This word *Templum* doth sometimes signifie those *a* spaces and regions in the ayr and earth, which the *Augures* did quarter out with their crooked staff at their South-saying, sometimes it doth signifie a sepulcre or grave, *c* because in old time men did superstitiously pray and worship at the Tombs and Monuments of their deceased friends, as if it had been in *Temples* or *Churches*; and in this sense may *Virgil* be understood,

a Rosin. ant. l. 2. c. 2.

c Lilius Gyrald. de diis gentil. syntag. 17.

d Preterea fuit antiquo de marmore Templum
Conjugis antiqui ——

d Lib. 4. Æneid. v. 457.

Most commonly it doth signifie a *Church* or *Temple*; in which sense as often as it is used, it is *e* said *templandi*, from beholding; because when we be in the Church, by lifting up our hearts by a divine contemplation, we do as it were behold the great Majesty of God.

e Franc Sylv. in orat. pro L. Murzen.

De Fano.

It is also called *Fanum à fando*, from speaking; not from the speaking of the Priest, but because the people do there speak unto God, and God again to the people.

f Turneb. advers. l. 3. c. 9. *f* Some are of opinion, that *Fanum* in propriety of speech, signifieth the *Churchyard*, or court before the Temple; *Templum* signifieth the Edifice or Church built.

De Delubro.

Thirdly, a Church was called *Delubrum*, *Synecdochicè*; because it was the principal part of the Church, namely the place where the Idol-god stood; and it was called *Delubrum* from *Deus*; *g* as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outward form of the Churches, some were uncovered, because they counted it an heinous matter to see those Gods confin'd under a roof, whose doing good consisted in being abroad; other-some covered; some round, some otherwise; but within they much resembled our great Churches. They had their *proxaon*, or *Church-porch*, whereabouts they were wont to have the image of the beast *Sphynx*, which was so famous for his obscure riddles; so that by this image was signified, that the oracles of the Gods, which were treated of within the Church, were dark and mystical. They had certain walks on each side of the *body of the Church*, which they called *porticus*; and in these places it was lawful for them to merchandize, make bargains, or confer of any worldly business; as likewise, in the *basilica* or *Body* it self. But their *Quire*, called *Chorus*, was counted a more holy place, set apart only for divine service. The manner of hallowing it, was as followeth. When the place where the Temple should be built, had been appointed by the *Augures* (which appointing, or determining the place they called *Effari templa*, *& sistere Fana*) then did the party, which formerly in time of need upon condition of help from the Gods, had vowed a Temple, called together the *Aruspices*, which should direct him in what

g Rosin. ant. l. 2. c. 9.

form

form the Temple ſhould be built; which being known, certain ribbands, and fillets were drawn about the *area* or plot of ground, with flowers and garlands ſtrewed underneath, as it was probable, to diſtinguiſh the limits of this ground now to be hallowed. Then certain ſouldiers marched in with boughs in their hands, and after followed Veſtal Nuns, leading young boyes and maids in their hands, who ſprinkled the place with holy water. After this followed the *Prætor*, ſome *Pontify* going before, who after the *area* had been purged by leading round about it a Sow, a Ram, and a Bull, ſacrificed them, and their entrails being laid upon a turf, the *Prætor* offered up prayers unto the Gods, that they would bleſs thoſe holy places, which good men intended to dedicate unto them. This being done, the *Prætor* touched certain ropes, wherewith a great ſtone being the firſt of the foundation, was tyed; together with that, other chief Magiſtrates, Prieſts, and all ſorts of people did help to pluck that ſtone, and let it down into its place, caſting in wedges of gold and ſilver, which had never been purified, or tryed in the fire. Theſe ceremonies being ended, the *Aruſpex* pronounced with a loud voice, ſaying, *Ne temeretur opus, ſaxo aurove in aliud deſtinato; id eſt*, Let not this work be unhallowed, by converting this ſtone, or gold into any other uſe.

De Æde ſacra.

Fourthly, a Church was called *Ædes ſacra*, an holy houſe, becauſe of the ſacrifices, prayers, and other holy exerciſes performed therein. Although (as *Gellius* hath long ſince obſerved) every holy houſe was not a Church. For the proper note of diſtinction between a Church and a religious houſe was this, that a Church, beſide that it was dedicated unto ſome God, it was alſo hallowed by the *Augures*, without which hallowing the edifice was not called a Church, but a religious houſe: of which ſort was the Veſtal Nunnery, and the common

Treasury, called *Ædes Saturni*. We may add hereunto this word *Pulvinar*, i which doth often signifie a Church: the reason being taken from a custom amongst the *Painims*, who wont in their Churches to make certain beds in the honour of their Gods, and those beds they called *Pulvinaria*, from *Pulvis*, because they were fill'd with dust or chaff.

i Bartho. Latomus in Philippic. 4. am.

De Sacraria.

Sometime k *Sacrarium* signifieth a Temple, though properly it signifieth a Sextry or Vestry, *nempe* l *Sacrorum repositorium*.

k Cic. pro Milone. l Fanc. Sylvius a rat. p. o L. Mur.

De Lucis.

Near unto divers Temples stood certain groves dedicated to some of the Gods: they were called in Latine *Luci*, *à non lucendo*, as divers say, by the figure *Antiphrasis*. But others are of a contrary opinion, giving it that name, because of the exceeding light it had in the night time, by reason of the sacrifices there burnt.

De Scrobiculo, Ara, & Altari.

The places upon which they sacrificed either in their religious houses, or their groves, were of three sorts: which we in English term Altars: but the *Romans* distinguished them by three several names, *Scrobiculus*, *Ara*, *& Altare*.

De Scrobiculo.

m *Scrobiculus* was a furrow, or pit containing an Altar in it, into which they poured down the blood of the beast slain, together with milk, honey, and wine, when they sacrificed to an infernal God.

m Alex. Gen. dier. l. 5. c. 16

De Ara.

The second kind of Altar was called *Ara*, either *ab ardenda*, because their sacrifices were burned upon it: or from their imprecations used of that time: which in Greek they called ἀραί. It was made four square, not very high from the ground, or as some say, close to the ground: and upon this they sacrificed unto the terrestriall Gods, laying a turf of grass on the altar: and this

gave

gave *Virgil* occasion to call them *n Aras gramineas, id est,* grassie Altars. n Virg. Æn. 12.

De Altari.

The third sort was called *Altare*, either because it was exalted, and lifted up somewhat high from the ground; or because he that sacrificed (by reason the Altar was so high) was constrained to lift up his hands *in altum*, on high: and upon this they sacrificed unto their coelestial Gods only. *o*

o Serv. in Bucol. eclog. 5.

De Foco.

Focus is a general name, signifying any of these altars: so called *à fovendo:* because as *Servius* hath observed, that is *focus, quicquid fovet ignem, sive ara sit, sive quicquid aliud in quo ignis fovetur.* But in strict propriety of speech, it is taken for that Altar, on which they sacrificed to their domestick Gods, such as were their *Penates* or *Lares*; as it appeareth by *Plautus*, *p*

p Aulular. Act. 2. Sc. 5.

Hæc imponentur in focem nostro Lari,
Ut fortunatas faciat gnatæ nuptias.

Whence ariseth that Adage, *Pro aris & focis certare*, sounding as much as to fight for the defence of religion and ones private estate: or (as our English proverb is) for God and our Country: the proverb being in its original, part of the oath that was administred unto the *Roman* Souldiers; and thus it is expounded by *q Turnebus*,

q Turn. Adv. l. 10. c. 7.

LIB. I. SECT. II.

The general Diviſions of the ROMAN PEOPLE.

CAP. I.

De populo Romano, *& ejus prima diviſione.*

THus having premiſed a ſhort Treatiſe concerning the firſt ſituation of *Rome*, and the moſt remarkable parts thereof, I purpoſe to proceed to the inhabitants, which Antiquity hath ſtyled Citizens of *Rome*. And *Eraſmus* rather deſcribing a *Roman* than defining him, ſaith a *Roman* was grave in his converſation, ſevere in his judgement, conſtant in his purpoſe: Whence *Cicero* in his Epiſtles often uſeth this phraſe *more Romano*, for *ex animo, id eſt*, unfeignedly. *a Sigonius* rendring the definition of a *Roman* Citizen, averreth, that no man is *lege optima, id eſt*, in full and compleat manner a Citizen of *Rome*, but he which hath his habitation there, which is incorporated into a Tribe, and which is made capable of City preferments. By the firſt particle, thoſe which they term *Municipes*; by the ſecond, thoſe which they call *Inquilini*; and by the third, thoſe which they call *Libertini*, are in a manner disfranchiſed. But whereas *Sigonius* ſaith, that they muſt have their habitation at *Rome*, he would not be ſo underſtood, as if a *Roman* Citizen might not remove his habitation

a Sig. de jur. Rom. l. 1. c. 1.

habitation to any other Countrey; For, ſaith he, a *Roman* Citizen may be as long abſent from *Rome*, and the fields belonging to *Rome*, as he pleaſes, ſo that he ſuffer himſelf to be ſeſſed and taxed in common with others toward the ſubſidy-payments, and denyeth to be incorporate into another City. For *T. Pomponius* was a true Citizen of *Rome*, though he dwelt at *Athens*. The *Roman* Citizens being by theſe priviledges, as by a more proper and peculiar charact[illegible]iſtinguiſhed from other people, and being planted in the City according to the appointment of *Romulus* their King, it ſeemed good unto him to divide them into *b Tribes*, not taking the note of diſtinction only from the divers places they then inhabited, as we read that *Servius* the ſixth King of *Rome* did, making therefore four Tribes τοπικὰς, local, namely *Suburbanam*, *Palatinam*, *Collinam*, and *Eſquilinam*, (which number of local Tribes in proceſs of time increaſed unto the number of 35.) but dividing them according to their ſeveral Nations, which at the firſt were *donati civitate*, *id eſt*, made free Denizens of *Rome*: and (they being in number three. 1. The *Sabines*, which were named *Tatienſes*, from their King *Tatius*. 2. The *Albanes*, called *Rhamnenſes*, from *Romulus*. 3. Other Nations promiſcuouſly flocking out of other Countries to the Roman *Aſylum* placed in a grove called in Latine *Lucus*, which gave *Romulus* an occaſion to name them *Luceres*:) he made in all three Tribes φυλὰς, or national. After that *Romulus* had thus divided the whole body of the *Romans* into three Tribes, he then ſubdivided each Tribe into ten leſſer numbers, which he called *Curiæ*, or Pariſhes: and then followed five other diviſions in reſpect of their different degrees and callings: of which in their ſeveral order.

b Sig. de jur. Rom. l. 1. c. 3.

CAP.

CAP. 2.

De prima divisione Romanorum, in Senatores *sive Patres*, Patricios *sive Patronos*, *&* Plebeios *sive Clientes.*

THe first division of the *Romans* in respect of their degree and place, was this; The elder, wealthier, and graveſt sort of *Romans*, were called sometimes *Patricii*, either because of their age or gravity; or because they had many children (for great priviledges were granted unto fathers of three children;) and sometimes *Patroni*, because they were as Patrons and fathers in helping and assisting the causes of the common people seeking to them. The younger, poorer, and simpler sort were called, as they had relation to the *Patricii*, *Plebeii*, *id est*, the Commons; as they had relation to their *Patroni*, they were named *Clientes*, *id est*, Clients: between whom c there was such a mutual and reciprocal intercourse of love and duty, that as the *Patrons* were ready to protect their Clients, so the *Clients* were bound with all faithfulnes to cleave unto their Patrons: and that not only to credit them with their attendance in publick Assemblies, but to disburse out of their own purses towards the bestowing of their daughters, the paying of publick mulcts the giving of largesses in suing for offices, &c. Neither was it lawfull for either of them to inform, to depose, to give their voices, or to side with adversaries one against another, without the guilt of treason; for which crime of treason they were *diis infernis devoti*, cursed to hell, and the law gave liberty for any man to kill them. Out of the *Patricii* did *Romulus* elect 100. counsellors to assist him in determining matters concerning the Common-weal: to these did *Romulus* after add another 100. and *Tarquinius Priscus*, as divers Authors testifie, made them a compleat 300. which they called *Patres*, or *Senatores*, and their sons *Patricii*. But in process of time

c Lazius de Repub. Rom. l. 12. c. 3.

the

the Commons also were eligible into a *Senators* place. Some say that *Tarquinius Priscus* added the second hundred to the *Senate* out of the Commons, who are called *d Senatores minorum gentium, id est, Senators* of the lower house. *Brutus* added the last hundred, and made them 300. at what time they began to be called *Patres conscripti*. And this accordeth with *Joannes Rosa* in his Epitome to the *Roman* History, in his *Ch. de Regibus Romanis*: where he saith, that *Tarquinius Priscus* did double the number of the *Senators*: And likewise *e Alexander Neop.* saith, that *Brutus* made them compleat 300.

d M. rr. Phiericus in Cic. l. 1. ep. fam. 1.

e Alex. Gendier. l. 2. c. 19.

CAP. 3.

De secunda divisione Romanorum in tres ordines: Senatorium, Equestrem, Popularem, *seu Plebeium.*

After that through *Tarquinius Superbus* his Tyranny, the very name of a King became odious to the *Romans*, not only the present King was exiled, but the Authority of a King ever afterward detested and perpetually abrogated; so that the office which was before Monarchical, then was divided between two, called *Consuls*: Neither were they admitted for any longer space than one year. At which time of change the *Romans* were divided into three orders or ranges. 1. Into *Senators*, of whom before. 2. Into *Gentleman*, called of the *Romans*, *Ordo Equestris*: by which we do not understand those 300 *Celeres, id est*, Pensioners, called sometimes *Equites*; for that was a place of service, this is a title and token of gentility; who although they were inferior to the chief Senate, yet they were of great esteem among the *Romans*; and although they might not wear the same Robe as the Senators did, namely the *Laticlavium*, or garment bestudded with flourishings of purple silk in manner of broad nails heads; *f* yet they might wear the *Augusticlavium*, a garment different from the former

f Rosin. ant. l. 1. c. 17.

only in this, because the purple studs wherewith it was purfled, was narrow, and not so large as the *Latielavium*. They also at the time of their Election received from the *Censors* a house called by them *Equus publicus*, because of the yearly allowance out of the common treasury to keep him; it was also called *Equus militaris*, because of their service in war *g* (they having their horses kept as well in peace as war.) They received also a Gold Ring, *h* whereby they were distinguished from the populacy: for it was not lawful for any to wear a Gold Ring under the degree of a Senate, or a Gentleman. The estimation and value of a Senators estate *i* until *Augustus* his time, was *octingenta sestertia*, that is, 6000. *l.* *k* Of a Gentlemans estate it was *quadringenta sestertia*, *id est*, of our English money 300. *l.* The third order or degree in the *Roman* Common-wealth, was *Populus*, the Populacy, or *Commons*, which should exercise trading, manure the ground, look unto the cattel, &c. Where by the way we must understand, that the baser sort of the *Romans* which did wander up and down, to and fro, not setling themselves to any vocation, were not contained within this division; for unto them there was no name vouchsafed, but according to the Poet, they were *sine nomine turba*, or as *Livy* saith, *ignota capita*, men of no account, and therefore of no name.

g Lips. de magnitud. Rom. l. 1. dial. 5.

h Alex. Gen. dier. l. 2. c. 29

i Suet in August.

k Plin. lib. 33 c. 12.

CAP. 4.

De tertia divisione in Nobiles, Novos & Ignobiles.

THis division was taken from the right or priviledge of having Images; for they were accounted Noblemen, which had the Image of their Predecessors: Those which had their own Images only, were called *Novi*, that is, late quoined Nobles or upstarts. *Salust* useth this word often in the disgrace of *Tully*, calling him *Novum & repitium civem*, one that lately crept into the City. The third sort, called *Ignobiles*, were those that had no Images, neither

neither of their Predeceſſors, nor of themſelves. Before we proceed, we muſt underſtand, that it was not lawful for who would to have his own Image if he ſo deſired; for none might be thus priviledged but thoſe alone to whom the right of riding in a Curule chair belonged; and to theſe the right of Images was permitted, as well for the credit of their houſe, as to incite others to the like atchievments, when they would conſider the divers ceremonies uſed unto theſe Images in a honourable remembrance of thoſe whom they did repreſent. Whence it followeth, that *Jus nobilitatis* is nothing elſe but *Jus Imaginis*; Inſomuch that this word *l Imago* doth ſometimes ſignifie Nobility; and the right of having Images with them, was the ſame as the right of having Armes with us. *m* The ſuperſtitious conceit which the *Romans* had of theſe Images was ſuch, that upon feſtival dayes, and all occaſions of joy and mirth, thoſe Images ſhould be beautified and adorned with garlands and flowers; upon occaſion of grief and mourning, they would take from them all their ornaments, making them in a manner partake of their mourning. Some they kept in their private Cloſets, *n* others they expoſed to the publick view of paſſengers, placing them in the gates of their houſes; together with the Swords, Targets, Helmets, Ship-beaks, and ſuch other ſpoils as formerly they had taken from their enemies; *o* which it was not lawful for any, though they bought the houſe, ſo much as to deface. Yea they were ſo annexed to the freehold, that they paſſed alwayes in the conveyance of the houſe. The matter of which they were commonly made, was wax, as that of *Juvenal* doth ſufficiently witneſs,

l Sig. de jur. Rom. l. 2. c. 22.

m Alex. Gen. dier. l. 5. c. 24.

n Bart. Lat. in Verrin 7.

o Plin. 25. 1.

p *Tota licet veteres exornent undiq; cerâ*
Atria, nobilitas ſola eſt atq; unica virtus.

p Juv. Sat. 8.

Again, we may not think, that they made in wax a compleat ſtatue, or a full portraiture or the whole body, butonly from the ſhoulders upward.

CAP. 5.

De quarta divisione Romanorum in Optimates *&* Populares.

THis fourth division of the *Romans* hath been occasioned through the faction and siding of the Citizens. Those (according to the description of *q Tully*) were *Optimates, id est*, the best Citizens, who desired their actions might be liked and approved by the better sort: Those *Populares, id est*, popular, who through desire of vain glory, would not consider so much what was most right, as what should be most pleasing unto the populacy: So that here by this word *Popular*, we understand not the commons as formerly we did, *r* but be he Senator, Gentleman, or inferior, if he do more desire that which shall be applauded by the major part, than that which shall be approved by the better part, him the *Romans* called *Popular, id est*, such a one, that preferreth the popular applause before the right.

q Cic. pro. Sextio.

r Geor. Merula in orat. pro Ligario.

CAP. 6.

De quinta & ultima divisione Romanorum, in Libertos, Libertinos, *&* Ingenuos: *Item de* Manumissione.

THe difference of the freedoms in the City of *Rome* hath given occasion of this division: for he or she that had served as an *Apprentice*, and afterward was manumised, was named *Libertus*, or *Liberta*. The son whose father and mother were once Apprentices, was called *libertinus*; but that son whose father & mother were both *libertines*, or both free born, *ſ* yea whose mother only was free, was called *Ingenuus, id est*, freeborn. But after *Appius Cæcus* his Censorship, then began *Liberti* and *Libertini* to signifie one and the same degree of freedom, so that

ſ Justin. inst. l. 1. tit. de ingenuis, vid. Franc. Sylv. in Catilin. 4.

that *Liberti* and *Libertini* were taken for those which served for their freedom, and *Ingenui*, were taken for those which were free-born, whether their Parents were *Liberti*, or *Libertini*. Here is occasion given us to consider the manner of their freedom, and such ceremonies which belonged thereunto. The freedom of the City of *Rome* was three wayes obtained; 1. By *Birth*, both, or at least one of the parents being free; and such were called *Cives originarii*, 2. By *Gift* and *co-optation*, when the freedom was bestowed on any stranger, or Nation, and they were termed *Civitate donati*: and so we read that *Cesar* took in whole Nations into the freedom. Lastly, by *Manumission*, which was thus: when as the servant was presented by his master before the *Consul* or *Prætor*, the master laying his hand upon his servants head, used this form of words, *Hunc liberum esse volo*, and with that giving him a cut on the ear, he did *emittere servum è manu*: the *Prætor* then laying a certain wand or rod called *Vindicta* upon the servants head, replied in this manner, *Dico eum liberum esse more Quiritum*. Then the *Lictor* or Sergeant taking the wand, did strike therewith the servant on the head, and with his hand struck him on the face, and gave him a push on the back, and after this he was registred for a freeman. Moreover, the servant having his head shaven purposely at that time, received a Cap as a token of liberty; whence *ad pilium vocare aliquem*, is to set one at liberty, as likewise *Vindicta liberare*. *u* According to *Tertullian*, at this time of their manumission the servants received from their masters a white garment, a Gold ring, and a new name added unto their former. Whose authority if we admit, then the having of three names among the *Romans* was rather a sign of *Freedom*, than of *Nobility*. And that of *Juvenal*,

Tanquam habeas tria nomina ——

Is not to be expounded, *as if you were a nobleman*, but, *as if you were a freeman*. Here we may also consider the two several kinds of servants; the first were called *Servi*, and

t P. Ramus in orat. pro C. Rabirio.

u Tert. de resur. carn.

and they could never attain to any freedom, without the consent of their master. *x* For those that were thus *servi*, were commonly captives, either bestowed as a reward upon this or that Souldier, or bought *sub corona*, or of other Citizens that had gotten them one of these two former wayes. The second were called properly *y nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were delivered up unto their creditors by the *Prætor* to work out the debt, so that after the payment thereof, either by money or work, they did recover their liberty; whence they were said *z nomina sua liberare*, when they paid the debt: as on the contrary they were said *nomina facere* when they became in debt. And their creditors when they sued for the payment, were said *nomina exigere: nomen* in these and the like places signifying as much as *debitum* a debt, *a* because their creditors did use to write down their debtors names. *b* The manner of suing for their debts was as it followeth; The debt being confessed, thirty days were allowed the debtor for the payment of the money (those days of respite they called *dies justos*, *velut justitium quoddam*, id est, *juris inter eos interstitionem & cessationem.*) The money not paid, the debtor was delivered up as a servant to his creditor, yea he was sometimes cast into prison; and unless the creditor were in the mean time compounded with, he remained three-score days in prison, and three Market days one after the other being brought before the Judge, the debt was solemnly proclaimed, and upon the third Market day he was either sold to forreigners for a slave, or else was punished with death, each creditor being suffered if he would, to cut a peice of his dead body in stead of payment.

x Dion. Halicar. l. 4.

y Sig de jur. Rom. l. 1. c 31

z Mic. Toxit. in orat pro. P. Quintio.

a Fr. Silv. in ep. virorum illust. l. 1. ep. 6.

b Vid. Cœl. Rhod. l. 12. c. 20. It. A. Gel. l. 2. c. 21.

LIB. II. SECT. I.

The General Diviſions of the ROMAN GODS.

CAP. 1.

De Diis.

THough Satan had much blinded the hearts of men in old time, yet was not the darkneſs of their underſtanding ſo great but that they did eaſily perceive and therefore willingly acknowledge, that there was ſome ſupream Governour, ſome firſt Mover, as *Ariſtotle* ſaith, ſome firſt Original of all goodneſs, as *Plato* teacheth. So that if any made this queſtion, Whether there was any God or no? he ſhould be urged to confeſs the truth of that, rather *Argumento bacillino, quam Ariſtotelico*, rather with a good cudgel, than with any long diſpute. But as they were moſt certain, that there was a God, ſo were they again very blind in diſcerning the true God: and hence hath been invented ſuch a tedious Catalogue of Gods, that (as *Varro* averreth) their number hath exceeded thirty thouſand, and proved almoſt numberleſs. Wherefore I ſhall obmit to make any diſtinct Treatiſe of the Gods, intending *obiter* and by the way to ſpeak of them, which either

either had Priests, or Sacrifices instituted for them. Only I purpose to shew what is understood by those general distinctions of the Gods which divers Authors have used, *Tul. lib. 2. de legibus*, reduceth all unto three heads, Gods celestial, which *Varro* calleth select, and others have stiled Gods *majorum gentium, i. e.* of the greater nations, because their power was greater than the others *a Alexander Neopolitanus* saith, that twelve of these were the *Penates* which *Æneas* did take forth with him at the destruction of *Troy. Ovid* calleth them *Deos Nobiles*, noble Gods: others call them, *Deos consentes, quasi consentientes*, because *Jupiter* would do nothing without the consent of all. *Ennius* hath dilivered then in this distich;

Juno Vesta, Minerva, Ceres, Diana, Venus, Mars,
Mercurius, Jovis, Neptunus, Vulcanus, Apollo.

a Alex. Gendier. l. 6. c. 6.

The second sort of Gods were called *b Semidei, id est*, Demigods; also *Indigites, id est*, Gods adopted or canonized: men deified. For as the select gods had possession of heaven by their own right: so these gods canonized, had it no otherwise than by right of donation, being therefore translated into heaven, because they lived as gods upon earth; but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore were they called gods of inferiour note. *c Servius* would have these called *Divi*; observing this difference between *Dii* & *Divi*, that *Dii* should signifie those which had been gods perpetually, but *Divi* should signifie men made gods, though commonly they are used one for another. Whence they called all their Emperors *Divi*, because for their deserts they thought them worthy to be gods. Now the *d* manner how a man became deified was this: the party to be canonized being dead, a pile of wood was made in form of a great Tent, or Tabernacle, with three other lesser Tabernacles, one on the top of another, the lowermost having in it dry combustible matter, but on the outside adorned richly with Gold, Ivory, and painted Tables; hither the dead corps

b Serv in lib. Georgic.

c In Æncid. lib 5.

d Rosin. ant. l. 3 c. 18. vid. Hospin. de orig Christ. F. p. 21. vid. exemplum hujus consecrationis in Severi sepultur. Herod. 4. p. 258.

corps was to be carryed with great ſolemnities; the Senate, the gentlemen, and all the chief Magiſtrates going before, with hymnes and ſongs, and all kind of honour, which was to be performed even to the Gods themſelves. He being in this manner brought, & laid within the ſecond tabernacle, the fire was kindled, by him who was to ſucceed in the Empire, for I find none canonized but onely Emperors at their deceaſe: forthwith at the kindling of the fire, a living Eagle was let fly from the top of the tabernacle which was ſuppoſed to tranſport the ſoul of the dead body into heaven, inſomuch that ever after he was canonized amongſt the Gods, and worſhipped as a God. And becauſe they were thus turned into Gods, ſome have called them *Deos animales*, *quoniam animæ humanæ verterentur in Deos.* This canonization was by the Greeks tearmed ἀποθέωσις, by the Latines *conſecratio.* The third ort ſwere thoſe moral vertues, by which as by a ladder men climbed into heaven: & therefore did men ſtile them Gods, becauſe by their meanes men became deified. Late writers perceiving that all the number of the Gods could not be reduced unto theſe three heads, have added a fourth ſort which they *f* call *Semones*, *quaſi ſemi homines*, becauſe ancient writers, as *Feſtus* hath obſerved, called man *hemones*, not *homines*, in which point I ſhall willingly condeſcend unto him, but I ſhall leave to the judgement of others, to determine how juſtly he hath reſtrained the Gods *minorum gentium*, of the leſſer Nations, onely unto this laſt *claſſis*: whereas my opinion is, that the demy-gods, the moral vertues which have been ſtyled Gods, and theſe *Semones*, may all of them be called Gods of the leſſer Nations, ſtanding in oppoſition with the Gods ſelect, which are called Gods of the greater Nations. But that we may underſtand what is meant by theſe *Semones*, we muſt remember that by them are ſignified unto us not thoſe Gods, which doe appertain to man himſelf, but to the neceſſaries of mans living, his victuals, his cloathing,

e Ser. in Æ. 1. lib. 3.

f Feſtus antiq. l. 2. c. 19.

and the like: not to the being of a man, but to the well-being of him, of which sort is *Salus*, *Fortuna*, with others. We read likewise of other names given in common to divers Gods, not as oppolite members of a division, but as notes of distinction drawn from the diversity of help, which they severally did afford unto man. In this respect some were called *Dii patrii*, or *Tutelares*, such as had undertaken the protection of any City or Town, which opinion had sometimes been entertained by our English men, and thence have risen these and the like speeches, St. *George* for *England*, St. *Denis* for *France*, St. *Patrick* for *Ireland*, &c. And the Romans being fully perswaded of the truth thereof, whensoever they went about to besiege any Town, by certain Enchantments, or spells they would first call out these Tutelar Gods; because they deemed it a matter impossible to captivate the City, as long as these Gods were within; or at least they thought it it a crime unexpiable to take the Gods as prisoners. And least other Nations might use the same means in besieging *Rome*, therefore, *g* as divers Authors have thought, the true Name of the Roman City was never known, lest thereby the Name of their Tutelar God might be descryed. Others, namely the *Tyrians*, have tyed fast their God *Hercules* with a golden chain, thereby the more to secure themselves of his residence among them.

g Sylvius in epist. virorum illustrium.

h Alex. Gen. dier. l. 6. c. 4. *h* Others have been called *Dii communes*, namely *Mars*, *Bellona*, and *Victoria*, because in time of War they are not bound to either side: but sometimes they help one side, and sometimes the other. And as they supposed some Gods to have the protection of whole Countries, so did they believe that others had the charge of particular men; and that as soon as any man was born, two spirits did presently accompany him invisibly, the one termed the *bonus Genius*, or good Angel, perswading him to that which should be good: the other called the *malus Genius*, or evil Angel, tempting to that which should be hurtfull, insomuch that they thought all the

actions

actions of men to be guided by these Angels, called *Genii*; so that if any misfortune befell a man, they would say that the matter was enterprised *Diis iratis, id est*, our *Genius* being displeased with us. *Virgil* called these bad Angels *Manes*, as it appeareth by that, *Quisq; suos patitur manes, id est*, Every man hath his evil Angel, *id est*, some misfortune. These *Genii* were thought to be a middle essence between men and Gods: They are therefore called *Genii*, because they have the tuition of us so soon as we are *Geniti*, *i.* e. born, it is most certain that old Authors used *Geno* for *Gigno*, whence *i Tully* saith, *Si mihi filius genitur*, and *k Varro*, *Antequam genat siliquas*, although every place had also his *Genius*, as hereafter shall appear. This opinion was the more confirmed by a vision which appeared unto *l Brutus* in *Asia* near unto the time of his death, for *Brutus* watching upon a certain night in his Pavilion, the candle being near spent, saw a fierce tragical person appear unto him, somewhat bigger than a man, & he presently being of an undaunted spirit, demanded whether he were a God or a man? To whom the vision answered, *Brutus*, I am thy evil *Genius*, which haunteth thee, thou shall see me at the City *Philippi* again & the same vision appeared unto him, as he was fighting at *Philippi*: which was the last fight that ever he fought. And because *Juno* was wont to be invocated in the time of Child-birth, therefore many have thought that every man hath not his two Angels, but one Angel, & *Juno* to observe him, but it is agreed upon by best authors, that as the angels or spirits which did attend men were termed *Genii*: so those which guarded women were termed *Junones*. This *Genius*, as often as he is understood for the good or evil *Angel*, which hath charge of a mans body, is painted in form of a man, as we read did appear to *Brutus*; though sometime he is painted as a young boy, sometimes as an old decrepit man, *m* but alwayes with a crown of plane-tree, which therefore was called *genialis arbor*, in the right hand he held a platter over an altar

i Cic. l. 2. de orat.

k Varro Rei Rust. l. c. 13.

l Plut. in Brut.

m Ro. Ant. l. 3. c. 64.

garniſhed with flowers: in the left he held a ſcourge hanging down. The ſacrifice that was performed unto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odours, were ſignified all kind of pleaſures) certain proverbial ſpeeches have been occaſioned: as when we ſee a man given much to his pleaſure, and dainty feeding, we ſay he doth *indulgere genio, i. e.* pamper or make much of his *Genius*: on the contrary he that is abſtemious and debarreth himſelf of his pleaſure, and dainty feeding, is ſaid *defraudare Genium*, to defraud his *Genius*: and *genialis* ſignifieth jocund or pleaſant. *n* It was alſo the cuſtom after meales to have a cup paſs round the table, much like unto our *poculum charitatis*, and it was called *proculum boni Genii*. *o* The *Grecians* had a like cuſtom, whence that cup was called by them, ἀγαθοῦ δαίμονος. But the reaſon, why they would not ſacrifice unto their *Genius* by killing ſome boſt, as they did to their other Gods, was, becauſe they judged it unfit to deprive any creature of his life upon that day, when they firſt began their life (for this ſacrifice was performed yearly by every one upon his birth day.) *Horace* notwithſtanding doth more then intimate the killing of a young pig in that ſacrifice.

n Vid. Eraſm. adag.

o Cel. Rhod. l. 28. c. 6.

——*oras Genium mero*
Placabis, & porco bimeſtri. Hor. lib. 3. *Od.* 17.

The other *Genius* which is ſuppoſed to have chief power over high ways and places, being therefore called *Genius loci*, was pictured in form of a Snake, in which form *Virgil* feigned him to have appeared to *Æneas*, when he performed the funeral rites due unto his Father *Anchiſes*, *Æneid. l.* 5.

——— *Adytis cum lubricus anguis ab imis*
Septem ingens gyros, ſeptena volumnia traxit.

And *Perſius*.

Finge duos angues, pueri, ſacer eſt locus, extra,
Meiite, id eſt, duos Genios.

Another ſort of gods was ſuppoſed to have the keeping

of

of mens houſes: *p* which they painted the form of a Dog, because thoſe to whom the charge of houſes is committed ought to reſemble Dogs, that is, to ſeem fierce and angry towards ſtrangers, but gentle and kinde to thoſe of the houſhold. Other properties wherein theſe *Lares* doe reſemble Dogs are recited by *Ovid. Faſt.* 5.

p Franc. Sylv. in orat. pro. Sext. Roſc. Am.

Servat uterq; domum, domino quoq; fidus uterq; eſt,
Compita grata Deo, compita grata cani:
Exagitant & lar, & turba Diana fures,
Pervigilantq; Lares, pervigilantq; canes.

They were named *Lares*; and becauſe of the charge they had over mens houſes, this word *Lar* is ſundry times taken for an houſe it ſelf, as *parvo ſub lare, Horat.* In a little Cottage, *homo incertilaris, id eſt*, a man that hath no houſe to dwell in. *Sen. in Med.* And the cuſtome in ſacrificing unto them, was to eat up all whatſoever was left at the offering, for they thought it an heinous matter to ſend any of that ſacrifice abroad, either among their friends, or the poor: and thereupon when we ſee a glutton leave nothing in the platter, not ſo much as the courteſie-morſel, we ſay *Lari ſacrificat, id eſt*, he ſacrificeth to his houſhold God.

garniſhed with flowers: in the left he held a ſcourge hanging down. The ſacrifice that was performed unto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odours, were ſignified all kind of pleaſures) certain proverbial ſpeeches have been occaſioned: as when we ſee a man given much to his pleaſure, and dainty feeding, we ſay he doth *indulgere genio, i. e.* pamper or make much of his *Genius*: on the contrary he that is abſtemious and debarreth himſelf of his pleaſure, and dainty feeding, is ſaid *defraudare Genium*, to defraud his *Genius*: and *genialis* ſignifieth jocund or pleaſant. *n* It was alſo the cuſtom after meales to have a cup paſs round the table, much like unto our *poculum charitatis*, and it was called *proculum boni Genii*. *o* The *Grecians* had a like cuſtom, whence that cup was called by them, Κρατὴρ ἀγαθοῦ δαίμονος. But the reaſon, why they would not ſacrifice unto their *Genius* by killing ſome hoſt, as they did to their other Gods, was, becauſe they judged it unfit to deprive any creature of his life upon that day, when they firſt began their life (for this ſacrifice was performed yearly by every one upon his birth day.) *Horace* notwithſtanding doth more then intimate the killing of a young pig in that ſacrifice.

n Vid. Eraſm. adag.

o Cel. Rhod. l. 18. c. 6.

——*oras Genium mero*
Placabis, & porco bimeſtri. Hor. lib. 3. *Od.* 17.

The other *Genius* which is ſuppoſed to have chief power over high ways and places, being therefore called *Genius loci*, was pictured in form of a Snake, in which form *Virgil* feigned him to have appeared to *Æneas*, when he performed the funeral rites due unto his Father *Anchiſes*, *Æneid. l.* 5.

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Servat uterq; domum, domino quoq; fidus uterq; eſt,
Compita grata Deo, compita grata cani:
Exagitant & lar, & turba Diana fures,
Pervigilantq; Lares, pervigilantq; canes.

They were named *Lares*; and becauſe of the charge they had over mens houſes, this word *Lar* is ſundry times taken for an houſe it ſelf, as *parvo ſub lare, Horat.* In a little Cottage, *homo incertilaris, id eſt*, a man that hath no houſe to dwell in. *Sen. in Med.* And the cuſtome in ſacrificing unto them, was to eat up all whatſoever was left at the offering, for they thought it an heinous matter to ſend any of that ſacrifice abroad, either among their friends, or the poor: and thereupon when we ſee a glutton leave nothing in the platter, not ſo much as the count ſie-morſel, we ſay *Lari ſacrificat, id eſt*, he ſacrificeth to his houſhold God.

LIB. II. SECT. II.

Of the Roman Prieſts, with ſome particular Gods.

FAunus the ancienteſt of all the Kings in *Italy*, was the firſt that brought any forme of Religion into *Italy*. He conſecrated groves, gave names unto Cities, erected Temples, ordained ſacrifices, &c. From whom the Churches, as ſome ſay, were named *Fana*. But after *Faunus*, *Evander* coming out of *Arcadia*, and afterwards being King of *Latium*, he inſtituted, and appointed many other Ceremonies, which before were unknown to the Latines. After him *Æneas* coming from *Troy*, taught many of the *Trojan* Ceremonies: by whoſe examples *Romulus* and *Numa* were incited to adde many other kinds of holy rites, and ſo at length reduced their whole Religion into a certain order, eſpecially *Numa*, who that he might gaine the more credit and authority to his new invented ſuperſtitions, feigned that he had conference about them every night with the goddeſſe *Egeria*. My intent therefore is, to ſpeak firſt of the God, in whoſe honour theſe holy rites were performed, and then to deſcend unto the Prieſts, which were to perform them, ſhewing withall the Ceremonies they uſed in the performance.

CAP.

CAP. 1.

De Pane Lyceo, sive Juno: de Lupercis & Lupercalibus.

PAn was supposed to be the God of the sheep-heards, and is *a* thus described: he is pictured naked, having homes in likeness of the Sun-beames, a long beard, his face red like the clear ayre, in his breast the star *Nebris*, the nether part of his body rough, his feet like a Goat: in one hand he holdeth a pipe, in the other a sheep-heards crook, and alwayes is imagined to laugh. *b* He was worshipped first in *Arcadia*, and there called the God *Pan Lyceus*, but afterward he was had in great esteem at *Rome*, *c* and in the honour of him certain sacrifices, & games called *Lupercalia* were solemnized by the *Romans*, *d* There he took the name *Innus*, or as some say *Junus*. Concerning the time, when these sacrifices were to be performed; it was upon the *e* unfortunate days of the moneth *February*, which hath his name *à februando*, from purging: whence the feast or game is as a purification; though the Latine word signifieth as much as a feast of wolves, in a memorial that *Romulus* and *Remus* were nursed by a shee-wolf. This seemeth very probable, because the Priests, which were called *Luperci* began their course at the foot of mount *Palatino*, called by the *Romans Lupercal*, *id est*, the place, where the wolf nursed *f Romulus*. The ceremonies were these: the hoast (being two Goats) was to be slain; and two Noble mens Sons were to be present, whose foreheads being blooded with the knives of them that had slain the Goats, by and by were to be dryed up with wool dipped in milk. Then the young Boyes must laugh immediately after their foreheads were dry. That done they cut the goats skins, and made thongs of them, which they took in their hands, and ran with them all about the City stark naked (saving they

a Servius in Virg. Ecl. 2.

b Feneſt. de sacred. c. 1.

c Feneſt. lib.

d Pomponius Latus de Sacred cap de Luper.

e Plutarch. in Romulo.

f Plutarch. in Romulo.

they had a cloath before their privities) & ſo they ſtrook with thoſe thongs all they met in the way. The young wives did never ſhun them at all, but were well content to be ſtricken with them; believing it helped them to be with childe, and alſo to be eaſily delivered. Moreover it is to be noted, that a Dog was ſacrificed at this time, becauſe there is a natural antipathy, or contrariety of nature, between the Dog and the Wolf: whereby *Romulus* thought to teſtifie his grateſulneſs unto the Wolf for her paines in nouriſhing him. The reaſon why the Prieſts ran up & down the ſtreets naked, was, becauſe that *Pan* the God of this ſacrifice was painted naked. As the feaſt, ſo alſo the place from whence they came, and likewiſe the Prieſts had their names *à Lupa*, which ſignifieth a Wolf. Some Authors have obſerved three ſorts of the *Luperci*, ſome called *Fabiani*, ſome *Quintiliani*, from *Fabius* and *Quintilius* their governours: the third ſort, which *g Roſinus* affirmeth to have been added in the honour of *Julius Cæſar*, I cannot find according to his quotation in *Suetonius*. But thus much *Suetonius* ſaith in *h* another place, namely that *Auguſtus Cæſar*, when he was chief Pontifie did reſtore theſe games again, being formerly aboliſhed.

g Roſin. ant. l. 3. c. 2.

h Sueton. in Auguſt.

CAP. 2.

De Cerere, & ſacris ejus.

CEres, otherwiſe called *Eleuſina*, was honoured firſt among the *Græcians*, afterward among the *Romans*, as a Goddeſs, which firſt taught men the skill of husbandry.

Prima Ceres ferro mortales vertere terram
Inſtituit. Virg. Georg.

Whence ſhe is ſometimes *metonymicè* taken for corn, as *Credenda Ceres arvis. Ovid.* It is ſeed time. She is called *Ceres* *i quaſi Geres, à gerendis frugibus*, from bearing fruit: becauſe, as ſome ſay, by *Ceres* is underſtood ſometimes

i Cic. l. 3. de nat. Deor.

sometimes the earth it self; whence also δημήτηρ, being the Greek name of *Ceres*, is said *quasi* γῆ μήτηρ, *i. e.* the earth, which is the common mother of all. *k* She is painted in the habit of a Matron wearing a Garland of Corn: sometime sorrowful, with a lamp in her hand, as if she were seeking out her daughter *Proserpina* carried by *Pluto* into Hell: and sometime with a handful of Corn or Poppy-seed. Upon the fifth of the Kalends of *April* the *Romans* were wont to perform sacrifices unto her, which they called *sacra Græca*, *i. e.* the Grecian sacrifices: as likewise they termed the chief woman which did perform them, *sacerdotem Græcam*, *i. e.* the Greek Ministress, because they were translated into *Rome* out of *Greece* by *Evander*. The time of their solemnities was at the dawning of the day, and the Priests, which were onely women, ran up and down with lamps in their hands in manner of mad women; into whose Temple none that was guilty of any fault committed, might enter: whose mysteries were to be buryed in silence, and by no means to be blabbed abroad. And as it is to be supposed, that was the reason why all wine was forbad in this sacrifice. So that hence *l* we say *Cereri sacrificat*, he sacrifices to *Ceres*, when he makes a feast without wine.

k Rosin. ant. l. 2. c. 11.

l Plautus in Culularia.

CAP. 3.

De Potitiis, & Pinariis, Hercules sacerdotibus.

HErcules had an Altar erected in the memorial of him near unto *Tiber* by *Evander*, upon occasion of the Herdsmens complaint brought unto *Evander* of him, whom they accused to have slain their chief Herdsman *Cacus*, the History being *m* thus, *Hercules* after his conquest over *Geryon*, brought away with him certain goodly Oxen, and as well to rest himself, as to pasture his Oxen, he laid him down to sleep in a green field near the River *Tiber*: In the mean while a certain Herdsman called *Cacus*, happened to come that way, and perceiving

m Serv. Æn. l. 8.

Hercules to be in a found sleep, he stole away two of his Oxen, which he hid in a Cave or hollow Rock, pulling them in by the tail backward, thinking that *Hercules* when he should look his Oxen, and see the print of their footsteps, would easily believe that his Oxen had rather gone out from the Rock than into it, as indeed he did for a time believe: but afterwards by the bellowing of the Oxen within, answering their fellows without, *Hercules* entered the Rock, & finding the thief *Cacus* there with his Oxen, he killed him; by reason of which murther he was brought before *Evander*: and after a while known to be the *Hercules*, of whom the Propheteſs *Carmenta* had foretold unto *Evander*, that he should be a God: whereupon *Evander* presently saluted him by the name of *Hercules* the Son of *Jupiter*, and in honour of him caused an Altar to be built there in that place: upon which yearly was to be offered up an Heifer which had never born yoke; and that this Sacrifice might be had in the more esteem, two Noblemen well stricken in years, and of good repute among the Romans, one of them being called *Potitius*, and the other *Pinarius*, were appointed as the Priests to perform these Sacrifices; from whom ever after *Hercules* his Priests were called *Potitii*, and *Pinarii*. Where by the way we must observe that *Pinarius* was not the firname of this Nobleman, but a name added unto him, intimating his & his successors punishment, for not coming soon enough according to the time appointed by *Hercules*. For as *u* divers writers testifie, the entrails of the beast were almost eaten up by the family of *Potitius*, before *Pinarius* and his family came, and in punishment of their negligence *Hercules* enjoyned the *Pinarii* never after to eat of the entrails, giving them this name *Pinarii* at that time, from the Greek word πεινα, signifieth hunger.

u Ser. Æn.

CAP.

CAP. 4.
De Fratribus Arvalibus.

THis Colledge or Company of Roman Priests may be Englished the *Arval fraternity*: the number of them being twelve, eleven of them natural Brothers, sons to *Acca Laurentia*, *Romulus* his Foster-mother; *o* for which respect *Romulus* yielded himself her adopted son, instituting this Order in the honour of *Ceres* and *Bacchus*, for the plenty of Wine and Corn, unto whom they did offer up certain sacrifices called *Ambarvales hostiæ, quod antequam macterentur ter circum arva aucebantur*, according to that of *Virg. Georg. Terq; novas circum felix eat hostia fruges*, that they being therewith appeased, might the willinger cause the earth to fructifie, and added himself to the former eleven, as the twelfth Priest, or brother to help in the performance of this publick sacrifice. Moreover, besides the performance of this sacrifice, these twelve were appointed *Arbitrators*, or Judges to decide controversies concerning Land-marks, and bounds of the field, from whence they took their name *fratres arvales*. Their sacerdotal ornament was a garland of Wheat bound up with a white ribband, this being as *p Pliny* writeth, the first Crown or Garland amongst the Romans.

o Feneſt. de Sacerd. c. 3.

Hoſpin. de orig. Monach. c. 10.

p Plin. 17. c. 1.

CAP. 5.
De Sexaginta Curionibus.

AFter that *Romulus* had divided the whole body of the Romans into three Tribes, or Wards, and subdivided those three Wards into thirty Parishes, called *Curiæ*, he ordained out of each *Curiæ* two Parish-priests or Curates called *Curiones*, or *Flamines Curiales*; which were publickly to offer up sacrifice in the behalf of the people. Neither was every one equally capable of this

honour of Prieſthood, *q* but he was to be at the leaſt fifty years old, of a life unſpotted, and a body unmaimed. And over all theſe three was one which had chief rule, and therefore was called *Curio maximus*, the Biſhop or chief Prelate: and theſe ſacrifices were called *Curionia*. *r* Their ſacrifice being ended, each Pariſh had a feaſt in a common Hall built for that purpoſe: it was called *Domus Curialis*, and ſometimes *Curia*.

q Dion. Hal. l. 2.

r Dion. il. id.

CAP. 6.

De Auguribus, & eorum Collegio.

AMongſt other kinds of foretellers, we read of three principally uſed in former time, namely, *Aruſpices*, *Auſpices*, and *Augures*: all which we Engliſh *Southſayers*, though the Latin words do import a main difference, worth our obſervation; all are alluded unto by *Ovid*.

Ovid. triſt. l. 1. Eleg. 2.

Hæc mihi non ovium fibræ tonitruſve ſiniſtri,
Linguave ſervatæ pennave dixit avis.

The *Aruſpices* did divine or foretel things to come, by beholding the entrails of beaſts ſacrificed; whence they had their name, *ab aras inſpiciendo*, from beholding the Altars. The *Auſpices* did foretel things by beholding the flight of birds: ſo that *Auſpices* are ſaid *quaſi aviſpices*, *ab aves aſpiciendo*. The *Augures* did divine from hearing the chatting or the crowing of birds; whence they are called *Augures*, *ab avium garritu*, from the chirping and chatting of birds. Theſe two laſt kinds of ſoothſaying have occaſioned theſe and the like phraſes, *bonis avibus*, or *auſpiciis* with good luck, *malis avibus*, *i. e.* with ill luck; and becauſe they would begin *t* nothing *in auſpicio*, *i. e.* without the counſel of the *Augures*, hence *Auſpicari rem* hath been tranſlated, to begin a matter. The Colledge of the *Augures* at *Rome*, was firſt appointed by *u* Romulus himſelf, being very expert in ſoothſaying, there being at the firſt but three, namely one of each Tribe; (The word *Augur* being not taken in his own

t Fr. Sylv. in erat. pro Cyentio.

u Pomp. Lætus cap. de Augur.

own proper ſenſe & ſignification above mentioned: but generally, by the trope *Synechdoche*, ſignifying all kinds & ſorts of divining whatſoever, whether it were by obſerving the entrails of beaſts, the flying, ſcreeching, and chatting of birds, or thundring or lightning in the Heaven, or marking the rebounding of crums caſt unto birds which kind of diviſing was called *Tripudium*. (*x* *Servius Tullius* the ſixth *Roman* King, when he divided *Rome* into four local Tribes, *id eſt*, regions, or quarters, then did he add the fourth *Augure*, all of them being elected out of the *Patricii*, or the Nobility of *Rome*. *y* In proceſs of time *Quintus*, and *Cænus Eugulinus* being choſen *Tribuni plebis*, i.e. Proctors of the Commons, obtained, that five other *Augures* ſhould be choſen out of the commonalty, and added unto the former four: at which time the Senate decreed, that the Colledge of *Augures* ſhould never exceed the number of nine. *z* Notwithſtanding *Silla* being *Dictator*, added ſix more, inſomuch that their Colledge increaſed to the number of 15. the eldeſt of which was called *a Magiſter Collegii*, the Maſter, or *Rector* of the Colledge. The *Augures* excelled other Prieſts, in *b* this reſpect, becauſe if any of them had been convinced of any hainous crime, he did not loſe his office, neither was any other ſubrogated into his room, although the *Roman* cuſtom was, that if any other Prieſt had committed any notorious offence, he ſhould preſently be diſcharged of his office, and another choſen in his place. *c* The manner how the *Augur* did obſerve was this: He ſate upon a Caſtle, or a Tower, the air being clear and fair without clouds or rain, holding a crooked ſtaff (called in Latin *Lituus*) in his hand, where ſitting in his ſouthſayng robe called *Trabea*, and in Greek χλαῖνα παρὰ τὸ χλιάνειν, *à calefaciendo*, from heating, becauſe it was well lined within, being guarded on the out-ſide with purple and crimſon guards, having his head covered, and his face turned toward the eaſt, ſo that his back was Weſt-ward, his right-ſide South-ward, and his left North-ward. Being thus placed,

x Roſin. ant. l. 3. c. 8.

y Roſin. ibid.

z Roſin ibid.

a Alex. Gen. dier. l. 5. c. 15.

b Alex. ibid.

c Pomp. Lætus de Aug.

plac'd, he quarter'd out with his crooked staff the heaven into certain *templa*, *id est*, regions or places, observing in what region the birds did appear: then killing his sacrifice, and offering up certain prayers called *effata*, he proceeded in manner as followeth. But first, suppose we for our better understanding hereof, that now the *Augures* were to resolve the people, whether the gods would assent that *Numa Pompilius* should be King. The *Augur* having done as above is shewed, his *Lituus* being in his left hand, he reach'd forth his right hand, putting it upon *Numa Pompilius* his head, using this form of words, *Jupiter pater, si fas sit Numam Pompilium, cujus ego caput tenes, regem Romæ esse, fac uti nobis signa certa ac clara sint inter eos fines quos feci*, *i.e.* If it be lawful for this *Numa Pompilius*, whose head I hold, to be K. of *Rome*, shew some manifest tokens within these regions or quarters, which I have described. Then if he observed lucky signs and tokens he presently pronounced *Numa Pompilius* King of *Rome*, if he perceived unlucky tokens, then did he *obnunciare*, or gainsay, and shew that the matter proposed was not pleasing to the gods. Where by the way we must note, that nothing was confirmed by the *Augures* without the appearance of two lucky tokens one after another; neither was anything gainsaid by the appearance of the only evil token. The distinctions of the south sayings have been taken, some from the event, and thence are they called *prospera*, lucky, or *adversa*, unlucky; some from the manner of appearing, *d* and that was either wished, being call'd therefore *impetrativa*, or unwished, called *oblativa*; some from the diversity of things which offered themselves in time of divining, and of these were five distinct sorts: the first was by the observing of lightning and thunder from heaven, the second from the flying & chatting of birds; the third from bread cast to pullets or little chickens; the fourth from four-footed beasts, which either should cross the way, or appear in some unaccustomed place; the fifth from those casualties whereby the

d Serv. Æn. lib. 8.

gods

gods do make their anger appear unto us. Of this sort are those voices which we hear we know not whence (as *Cadmus* heard, when he overcame the Serpent) the falling of salt towards us at the table, the shedding of wine upon our cloaths; from which casualties and the like, the *Augures* would pronounce either good fortune or bad to ensue. And these tokens were therefore called *Dira*, because thereby *Dei ira nobis innotescit*, the Gods anger is made known unto us. Now the things that in divining time appeared on the left hand, were commonly tokens of good luck, because the givers right hand in bestowing a benefit is opposite to the receivers left hand. Whence *sinistrum*, though in humane affairs it signifies as much as unlucky, yet in those holy Rites of divining, *sinistrum* is taken in a contrary sense, as *Avis sinistra*, good luck; *Intonuit laevum*, it hath thundred lucky, we shall have good success; and it is said, *à sinendo*, because the gods thereby do suffer us to proceed in our purposed projects And therefore *Tully* saith, *lib.* 1. *de divinatione*, *à sinistra conceratum, & firmum Augurium fieri*; and in the law of the 12. tables it is said, *Ave sinistra populi magister esto*. The *Grecians* from hence in the judgment of *Lipsius* have called the left hand ἀριστερὰ from ἄριστον signifying best.

e Vox subito audita est neque erat cognoscere prompt um, Unde sed audita est. Ovid. Met. l. 3 fab. 1.

f Serv. Æneid. lib. 2.

g Lips. Elect. lib. 1. cap. 2.

CAP. 7.
De Trepudiis & Pullariis.

THis kind of conjecturing is called *auspicium coactum quoniam necesse erat effa objecta cadere frustum hexpulliore, cum pascitur*. The word *Tripudium* is used by a *syncopation* for *terripudium*, which is as much as *terripavium*, *id est*, a dancing or rebounding of any thing upon the ground: for *pavire* is the same with *ferire*. * Others say *Tripudium quasi teritio pedum*. It is here taken for the divining, or conjecturing of good or evil to come by the rebounding of crumbs cast to chickens in a coop or pen: whence the *Augur* from these pullets or chickens was called

h Cic. de divinat. lib. 1.

* Humbert in l. 6. Ep. fam. Cic.

led *Pullarius*, *id est*, a Bird-Propher. The manner in observing was this: as often as by this kind of conjecturing they desire to know the gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilful in this kind of observation, repaired unto the place where the chicken were kept, where silence being commanded, and the coop opened they cast crumbs of bread to the chicken: now if the chicken either came slowly, or not at all unto the bread, or if they walked up and down by it not touching it, then was it a token that the matter to be enterprized was displeasing unto the gods: but if contrarily the chicken did hastily leap out of the coop, and eat so greedily the crumbs, that some should fall out of their mouths again, then the *Pullarius*, that is, the *Augur*, pronounced that it was well-pleasing to the gods, & encouraged the enterprizing of what they had intended cheerfully: & this was call'd *Tripudium solistimum*. This kind of conjecturing may seem to have its original from the *Lycians*, who as often as they desired to foreknow the success of any enterprize, they went unto the fountain dedicated unto *Apollo*, into which they cast baits for the fish: now if the fishes did eat them, it did betide good luck: if otherwise they neglected the baits, then did it betoken some evil event.

[i] Alex. Gerdier l. 1. c. 17.

[k] Alex. ibid.

CAP. 8.

De Aruspicibus, Aruspicina, & Extispicio.

THis kind of Sooth-sayers, as they were called *Aruspices*, *ab aras aspiciendo*, from beholding the beast upon the Altar; so were they called *Extispices*, *ab extra aspiciendo*, from beholding the bowels or entrails of the beast, called in Latin *Exta*. In this kind of sooth-saying the *Aruspex* observed in manner as followeth; [l] first whether the beast to be sacrificed came unto the Altar willingly, without plucking and haling; whether he died without much strugling, or loud bellowing, at one blow

[l] Senec. Oed. Act. 1. scen. 2.

or

ormany; whether any unlucky object were ſeen, or heard by them whilſt they were ſacrificing. Again, after the beaſt was ſlain, then would they obſerve, whether the bowels were of an unnatural colour, whether they were not ulcerous, exſiccate or impoſtumated: moreover they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would fore-tell what ſhould befall themſelves and their friends; the other they would call *partem hoſtilem*, whence they gathered predictions touching their enemies. Hence *Manto* in *m Seneca* deſcribing the entrals of his killed Sacrifice, ſaith, *Hoſtile valido robore inſurgit latus*, meaning by *hoſtile latus partem hoſtilem*. Afterward when the Sacrifice was to be burned, they conſidered whether the flame of the fire was ſmoaky, whether the ſmoak rolled and tumbled in the ayre, whether it were of any continuance or no: for all theſe were unfortunate tokens, as the contrary did betoken a good and fortunate iſſue to their deſignments. Theſe laſt, which obſerved the fire and ſmoak were called by a more peculiar name *Capnomantes*, ſmoak-Augures, from the Greek word κάπνος ſignifying ſmoak, and μάντις, *id eſt*, *vatis*, or a Sooth-ſayer. The firſt inſtructions that the *Romans* received were from the *Hetruſci*, who (as they themſelves ſay) received their knowledge, from a little boy which they named *Tages*, the hiſtory being thus; *n* when the *Hetruſci* were plowing their lands, upon a ſudden up ſtarted this *Tages* out of one of the furrows, uſing divers ſpeeches unto the plow-men: but they being much affrighted at this ſudden and ſtrange viſion, began with a loud cry to lift up their voices; upon occaſion whereof many good inſtructions concerning this kind of Sooth-ſaying, which were preſently recorded in books, and practiſed afterward by the *Hetruſci*.

m Oed. Act. 2. ſcen.

n Cicde divinat Indigetæ dixere Tagem qui primus Hetruſcæ Edocuit gentem caſus aperire futuros. Ovid Met. lib. ult.

CAP. 9.
De Flaminibus.

THe Mitre or head ornament which these Priests did wear, was called in old time *o Flama*, whence the Priests took their names *Flamines*. The *p* custom amongst the *Grecians*, as likewise afterwards amongst the *Romans*, was, that the King should as well perform ceremonies and holy rites of Religion, as civil businesses. But *Numa Pompilius* percieving that forrain wars did oftentimes occasion the Kings absence, in somuch that those Religious ceremonies which he himself personally should perform, were of necessity sometimes neglected, hereupon he ordained out of the *Patricii* three Priests to perform that divine service unto *Jupiter*, *Mars*, and *Romulus*, which he himself otherwise ought to have performed, calling the first *Flamen Dialis*, the other *Flamen Martialis*, and the last *Flamen Quirinalis*, from *Romulus* which was often called *Quirinus*.

Sive quod hasta quiris priscis est dicta Sabinis,
Bellicus ut telo venit in astra Deus.
Sive suo regi nomen posuere Quirites,
Seu quia Romanis junxerat ille Cures.

In process of time twelve others chosen from the Commons were added unto these, but with this note of distinction, that the three first were had in great esteem, & were called *Flamines majores*, high Priests; the other of less note, called *Flamines minores*, inferiour Priests; the chief of all was the *Flamen Dialis*, *Jupiters* high Priest. And whereas every one did wear a certain bonnet in form of a Mitre, which sometimes was called *Pileus*, sometime (by the figure *Synecdoche*) *Apex* (whereas *Apex* doth properly signifie only the top of the bonnet) *q* none might wear *Albo-galerum*, *i. e.* a white Mitre, but only *Jupiters* Priest, and that was to be made of white Sheep-skin, after the Sheep had been sacrificed. Whatsoever malefactor could escape unto this Priest, he should not be punished

o Rosin. ant. l. 3. c. 15.
p Rex Anius Rex idem hominum Phœbique sacerdos. *Virg.*
q Alex. Gen. dier. l. 6. c. 11.

punished that day. None was eligible into this office, but he that was married: neither was it lawful for him to marry twice, but if his wife died *Flaminio abibat, i. e.* he resigned his sacerdotal office. To him was permitted a rich robe of state, and a Curule chair; none might fetch fire out of his house, unless it were to perform some Sacrifice therewith; *r* none might barb or pole him but a free-man, and that with brazen sciffers. Many other ceremonies there were which concerned this *Flamen*, as likewise Time added many other *Flamines*, namely every god one; yea sometimes those threescore Parish-Priests which formerly were called *Curiones*, were called *Flamines Curiales*, and divers Emperors after their death had also their *Flamines*. *s* Moreover we must note that those Priests wives were called *Flaminicæ*; Their Ministers (for they were wont when they went to Sacrifice, to take a boy or a maid with them) *Flaminii*, or *Flaminiæ*: & the chief *Flamens* dwelling house was call'd *ædes Flaminia*, or *Flaminia*. But as it seemeth probable, *Numa Pompilius*, and so the other Kings succeeding him, did still reserve their right and authority in holy matters so far, that they would instruct other inferiour Priests, yea and specially perform some special Sacrifices themselves: whereupon after that the Kings authority was abrogated amongst them, then that these Sacrifices might be continued, they chose a certain Priest, which they preferred before the *Flamen Dialis*, but judged him inferior to the *Pontifex maximus*, or Arch-pontifie, and him they called *Rex sacrificulus*, and *Rex sacrorum*, the King-Priest. To him once every year the Vestal Nuns repaired, and used this form of words, *u Vigilasne Rex? Vigila.* King art thou awake? awake. For unto him it did belong to bid holy days, and to provide all things necessary for publick Sacrifices. He was to instruct those that sought unto him, the causes of the holy days, and tell them what was lawful and unlawful every month; and upon the fifth of the *Ides* of January he Sacrificed a *Ram* to *Janus*.

r Serv. Æn. l. 2.

s Fenest. de secret. c. 5.

t Alex. Gen. dier. l. 1. c. 12.

u Serv. in Æn. 10.

He was likewiſe wont to offer up a Sacrifice in the *Comitium* or great Hall of juſtice, which being finiſhed, he ran as faſt as he could out of the Market-place without delay. His wife was called *Regina ſacrorum*, the Queen-Prieſteſs, and was wont upon the Kalends of every moneth to Sacrifice a Porker, or a Lamb in her place, in the honour of *Juno*.

CAP. 10.

De Marte, ſive Mavorte, & aliis Palatinis Marti dictis.

MArs otherwiſe called *Mavors* by the figure *Epenthesis*, as we ſay *Induperator* for *Imperator*, was reputed the God of War, and ſo *Metonymicè* is uſed for War, as *vario Marte pugnatum eſt*, the battel was doubtful; *propio Marte* by ones own ſtrength and labour. He was the ſon of *Juno* only, without company of her Husband: for when *Juno* was greatly diſpleaſed with her ſelf, that *Jupiter* by ſtriking his head, without the company of a woman did bring forth the goddeſs *Minerva*, the by the counſel of the goddeſs *Flora* touched a certain flower in the field of *Olenias*, by vertue whereof ſhe immediately conceived the god *Mars*. This god, by reaſon of his dominion in War, the Romans painted fiery, ſometimes in his Chariot, ſometimes on Horſeback, with a Javelin in one hand, and a Scourge in the other. In old Coyns there was ſometimes the picture of a cock joyned with him, to ſhew the vigilancy and carefulneſſe that Souldiers are to uſe. He was called *x Gradivus à gradiendo*, from marching in battel againſt his enemies. He had a Temple without the City, whence he was called *Extramuranus*. *y* Near unto this Temple, without the gate *Capena*, did lye a ſtone of great note, which upon great droughts the people would bring into the City, and preſently rain would follow; whereupon it was called the Rainſtone, *Lapis manalis*, *à manando*. *Numa Pompilius* in the honour of *Mars*, ſirnamed *Gradivus*, ordained twelve dancing

x Roſin. ant. l. 2. c. 10.

y Roſin. ibid.

dancing priests, called *Salii à z saliendo* from dancing, which number afterward we find to have been doubled by *Tullus Hostilius*, in the War against *Fidena*, a town of the Sabines. The former twelve being called *Salii Palatini* from the Palatine mount, where they did begin their maurisk: the order *Collini*, from the Hill where their Chappel stood; *a* and sometimes *Quirinales*: and sometimes *Agonales*: so that the whole Colledge contained 24. Priests. *b* The occasion of their first institution was this; upon a certain time, in the rain of *Numa*, the plague, or some other contagious sickness was very hot among the *Romans*, insomuch, that no Sacrifice, or holy Offering could remove it: at that time a certain brazen Target or Scutcheon, called in latine *ænea pelta*, or *ancile*, big at both ends, but cut like a half Moon on each side, fell from heaven into *Numa* his hands, with a certain voyce promising all health unto *Rome*, so long as that brazen Target could be kept safe. Whereupon *Mamurius* a cunning workman, by the appoyntment of *Numa*, made eleven other *ancilia*, so like the first, that neither could be known from the other (to the intent that if any should be so wicked minded as to steal it, he might fail of his purpose by mistaking one for another.) These 12. Priests had the custody and keeping of them committed to their charge, and in the moneth of *March*, every year they apparelled themselves with a party-coloured Coat, called *tunica versicolor*, girt close to their body with a belt, or sword-girdle, & a brest-plate of hardness, called *æneum tegmen*, upon that, and a robe of estate, called *trabea*, clasped about them upmost of all. Upon their heads they did wear *abices*, *i. e.* Caps *c* much like unto the *Persian* Bonnets, called in Greek κυρβασιαι, or παραι. They did somewhat resemble our head-peices in War, made close unto the head, with a crest of cloath upon the top, whence some have called them *Galeas*. They being thus aparelled, danced about the *Forum*, or Market-place, and the Capitol, with short swords by their sides, a Javelin in the right hand, & their *ancile* in

z Plutarch in Num. 1.

a Dion. Hal. lib. 2.

b Plutarch in Numa.

c Dion. Hal. lib. 2.

the other; using certain Songs, either of the gods, and those they called *Jannalii*, *Junonii*, and *Minervii*; or of men, and those they called *Axamenta*, because in those Songs they did *axare*, *i. e.* nominate and call upon the names of some well-deserving men; as *Mamurius* which made those eleven Scutcheons, was often called upon in these Songs. Upon their festival dayes they had excesse of cheer, whence *d* Horace hath used *Saliares dapes*, to signifie dainty fare.

d Horat. l. 1. Ode 37.

CAP. II.

De Fœcialibus, & Patre patrato.

THese *Fœciales* were Officers at Arms, or Heraulds, to denounce war, or proclaim peace, appointed thereunto at first *e* by *Numa Pompilius*. *f* The chief part of their Office was to dissuade the Romans from molesting any confederate Nation, with unjust War: and if any confederate Nation did offer injury unto the Roman people, then did these *Fœciales* goe as Embassadors unto them, perswading and exhorting them to yield the Romans their right: but if they continued thirty dayes obstinate, refusing to yield to that which should be just and right, then did they presently denounce War against them, casting forth a dart in token thereof; which denunciation was *g* called *clarigatio*, *à clara voce qua utebantur Fœciales*. Others are of opinion, that whensoever War was denounced, this Herald at Armes should *h* turn loose a Ram unto their enemies borders; signifying thereby, that their fields should shortly become pasture for the Romans: from which custom we say of one that challengeth another into the field, *Arietem emisit*. Again, if the *Imperator*, or Lord-general, had done ought against his Oath, these *Fœciales* by their Sacrifice did avert the wrath of the gods from him. The cheifest of them was called *Pater-patratus*, a perfect Father: for he only could be *Pater-patratus*, which had both children of his own, and his Father also alive. They were

e Pomp. Latus de sacer.
f Dion. Hal. lib. 2.
g Serv. Æn. lib. 2.
h Vid. Eras. Adag.

were called *Fœciales*, *à fœdere faciendo*, from making a league or peace between Nations. This league which we in Latine do call *Fœdus*, the Romans in old time *i* did call *Fides*, as *Ennius* and *Pighius* witneſs; whence theſe *Fœciales* were termed alſo *Fidei Flamines*.

i Highius Septim l. 1.

CAP. 12.

De Duumviris, & Decemviris, & Quindecemviris, Sacris faciendis, item de Sibyllis.

THis Prieſthood had its firſt inſtitution from *Tarquinius Superbus*, whoſe office was as well to expound, as to keep the Oracles of thoſe ten Propheteſſes ſo famous throughout the world, called *Sibyllæ*. Concerning whom *k* *Munſter* hath theſe words: In times paſt there came a ſtrange woman to *Tarquinius* the King, offering nine books full of the *Sibylline* Oracles to be ſold: but *Tarquinius* thinking the books too dear, refuſed to buy them; the woman departing, burned three of theſe books, and came the ſecond time unto *Tarquinius*, demanding as much for thoſe ſix books, as formerly ſhe had done for the nine; *Tarquinius* began to deride her, whereat the woman departed, and burned three more, returning again unto *Tarquinius*, and asking as much for the three left, as ſhe asked at firſt for all nine. Then began *Tarquinius* more ſeriouſly to bethink himſelf thereof, and ſent for his *Augures*, asking counſel and advice of them. And they underſtood, by certain ſignes obſerved, that the King had refuſed ſome ſpecial goodneſs ſent from the gods; and for the books that remained they adviſed that the woman ſhould have what ſhe asked; As ſoon as the woman had delivered her books, ſhe preſently vaniſhed, and was never ſeen again; only warning them, to keep the books as ſafe as poſſibly they could. For the ſafe keeping of theſe, *Tarquinius* choſe two of the Noblemen, or *Patricii*, calling them *Duumviri*, appoynting them, as well by ſtudy to expound, as with

k Munſt. in ſua Coſmog. l. 2.

with care to keep those Oracles. In process of time, the people obtained, that ten should be appoynted to this office, *l* five of them being chosen out of the Commons, and five out of the Nobles: and then they were called the *Decemviri*. Afterward by *L. Sylla*, as it is thought, five more were added, so that they were then called the *Quindecemviri*: nay the number was increased by *Sylla* unto forty *m* as *Servius* thinketh, but still called by the name of *Quindecemviri*. Of these women that had the spirit of Prophesie, ten were very famous: the first was called *Persica*, the second *Libyca*, the third *Delphyca*, the fourth *Cumæa*, the fifth *Erythræa*, the sixth *Samia*, the seventh *Cumana*, the eight *Hellespontа*, the ninth *Phrygia*, the tenth *Tiburtina*: They all propheſied of the Incarnation of Christ. The place were these books were kept, was within the Capitol under ground in a Chest of stone, where they remained safe, untill the burning of the Capitol, at which time they also were burned. Notwithstanding many of the Propheſies have been known, partly by tradition, and parly being taken out of other copies in other Countries. One of the Propheſies concerning our Saviour Christ, was uttered by *Sibylla Delphica* in manner as followeth: *Nascetur Propheta absq; matris coitu ex utero ejus*, that is, There shall be a Prophet born without any copulation of the Mother, even out of her womb. It was spoken at *Delphos*. All their Propheſies were of that certainty, that when we would averre any thing to be undoubtedly true, we use to say, it is *Sibyllæ folium*, as true as *Sibylla's* Oracles. The *Cumæa Sibylla* did write her Oracles at the mouth or entrance of her Cave in leaves of trees, which the fierceneſs of the wind did oftentimes so scatter, that they could hardly be brought in order again: insomuch that when we would shew the great difficulty of bringing things in order, we may use *o Politian* his words, *Laboriosius est quam Sibyllæ folia colligere*, it is easier to gather *Sabylla's* leaves. This name *Sibylla* is not a proper name, but an appella-

l Feneſt. de sacerd. c. 13.

m Serv. Æn. lib 6.

n Mun. in sua Cosm. lib.

Credite me vobis folium recitare Sybillæ.

o Epist. l. 2. lib. 1.

tive,

tive, common to all women endowed with the ſpirit of Prophecy, taking their denomination from *πόθι*, which is in the *Æolick* dialect the ſame that Θεὸς, God, and *βουλὴ*, *i. e.* counſel, becauſe they did open and declare the counſel and determination of God unto the people. It appertained alſo unto theſe *Quindecem-viri* above-mentioned, to ſee that ſacrifice, and divine ſervice, that ſupplications, and proceſſions, expiations, and all ceremonial rites were duly performed.

p Serv. Æn. l. 6 *nec enim Deos, non Θεὸς, & conſilium non βουλὴ, ſed βουλὰς*, appellabant. Æolice genetr: ſermonis. Lact. de falſa religione l. 1. c. 2.

CAP. 13.

De Bona Dea, & Sacris ejus.

THis Goddeſs which is ſo famous by the name of *Bona dea*, is the Globe of the earth: which is therefore termed *Bona dea*, the good Goddeſs, becauſe we reap ſo many good things from the earth. She is called alſo *Ops*, the helping Goddeſs, *ab ope*, from help, becauſe by her help we live. She is called *Fatua*, and *Fanua*, *i. e.* the Goddeſs of ſpeech, becauſe young children do never ſpeak until they are able to go, and ſo have touched the earth. The *Grecians* called her γυναικεῖα θεὸς the female Goddeſs, becauſe that no male might be admitted to her ſacrifices; nay the very pictures of men were at that time to be covered. The inner room where her ſacrifices were, was called τὸ γυναικεῖον, the place for womens aſſemblies. q Thoſe that were chief in theſe ſacrifices, were the Veſtal Nuns. This good Goddeſs was ſuppoſed to be the wife of *Fanuus*, & upon a time to have been taken drunk with wine by him: for which fault *Fanuus* was ſaid to have beaten her to death with rods of Myrtle tree; but afterward being ſorry for that he had done, in amends he made her Goddeſs, and as it were ever after deteſting the Myrtle tree, he hallowing all other herbs and flowers to be uſed in the ſacrifices, forbad the Myrtle tree. Some ſay ſhe was ſo chaſte, that ſhe was never ſeen by any man but by her husband; and in reſpect of

q Cic. orat de Aruſp. reſponſis.

her chaſtity, the Myrtle tree is forbid, becauſe it was conſecrated to *Venus*: but whereas in this ſacrifice they uſed wine, they called it not by the name of wine, but milk or honey; *a* whence they called the veſſel wherein the wine was put, *Amphoram mellariam*, *i. e.* the honey veſſel. This ſacrifice became very famous by reaſon of *Clodius*, who being in love with *Pompeia*, *Julius Cæſars* wife, came unto theſe ſacrifices in womans apparel, and was found out by *Aurelia*, *Julius Cæſars* mother. This *Clodius* became ſo infamous for this, and other his adulterous pranks, that he occaſioned a common Proverb amongſt the Romans, *Clodius accuſat Mœchos*, anſwerable to which our Engliſh Proverb is, One Thief accuſeth another.

a Aler. Gen. dier l. 6. c. 8.

CAP. 14.

De Cybele, & Secerdotibus ejus.

THe Goddeſs *Cybele*, or rather *Cybelle*, was in her infancy expoſed unto wilde beaſts, unto the hill *Cybellus*; where ſhe being nouriſhed by the wilde beaſts, afterward became a woman of admirable beauty, and being found by a ſhepherds wife, was brought up by her as her own child, and called *Cybelle*, from the hill *Cybellus*. She excelled in natural gifts, and was the firſt that uſed a Taber and Pipe, and Cymbals among the Greeks. Moreover ſhe tenderly loved children, and therefore was called *magna mater*: ſhe was alſo called *mater deorum*, the mother of the Gods;

Ipſa deûm fertur genetrix Berecynthia. Virg.

She was called *Rhea*, ἀπὸ τοῦ ῥεῖν, to flow, becauſe ſhe doth flow and abound with all kind of goodneſs. She was alſo named *Peſſinuntia*, from the city *Peſſinus* a Mart town in *Phrygia*, where ſhe had a Temple. Moreover, ſhe was called *Berecynthia*, from the hill *Berecynthus* in *Phrygia*, where ſhe was worſhipped. Her Prieſts were called *Galli*, and their chief governour *Archi-Gallus*; they took their name from a certain river in *Phrygia*, called *Gallus*, of which

b Pomp. Lætus de ſacerd.

which whosoever drank, he became so mad, that he would presently geld himself, (as in truth all her Priests were enjoyned to geld themselves with a fish shell) the original of which custom is rendred thus: *Cybelle* loved a young man of *Phrygia* called *Atys*, and him she appointed chief overseer for her sacrifice, upon condition that he would keep himself chaste perpetually: But he not long after deflowred a Nymph, for which fact *Cybelle* bereft him of his wits and understanding, so that he in his madness did geld himself, and would have killed himself also, *t* had not the gods in their commiseration towards him, turned him into a Pine-tree. In remembrance of him ever after, her Priests were gelded. Every year the *Prætors* did sacrifice unto this Goddess. But the performance of the holy and religious rites at that time did belong unto a *Phrygian* man and *Phrygian* woman, chosen for that purpose: Which according to the manner of their countrey being apparelled with a party-coloured garment, called in Latine *Synthesis*, or *Amictus variegatus*, and carrying the picture of their Goddess about with them in the streets, they struck their breast with their hands, keeping tune with the Tabers, Pipes, and Cymbals, which other people following plaid upon. The Priests were also called *Corybantes*, from one *Corybantus*, which was one of her first attendants; and hereupon we call the Cymbal *æra Corybantia*. In this manner dancing about the street, they begged money of the people whom they met: and hence were they named *Cybelle* her collectors, or her *circulatores*, *id est*, Juglers. Some called them μητράγυρται from μήτηρ, which in this place signifieth *Cybelle*, called the great mother, and ἀγύρτης, a beggar or gatherer of alms. *u* Others have called them *Mitricia*: But by what name soever they were called, the place was so infamous by reason of their drunkenness, and incivility used at these times, that when they would point out a notorious naughty fellow, they would call him *circulatorem Cybelleium*, *Cybelle*

t Cybellius Ætys Exuit hac hominem: runcoq; induruit illo. *Ov. Met.*

u Rosin. ant. l. 3. c. 27.

belle her Jugler. Neither was it lawful for any free-born to undertake that office.

CAP. 15.

De Collegio Pontificum, & Pontifice Maximo.

THis word *Pontifex* is commonly tranſlated a Biſhop or Prelate, being called *Pontifices* in Latine, as alſo Pontifies in Engliſh, from one part of their office, which was to have the overſight of a great wooden bridge, called in Latine *Pons ſublicius*, being ſo great that Carts and wains might paſs over it, having no arches to uphold it, but only great piles and poſts of wood: [x] and that which is moſt remarkable in it, was that it was joyned together only with wooden pins, without any iron at all. Others are of opinion, that they were termed *Pontifices quaſi pontifices*, from *potis* and *facio*, of which opinion *Lucan* ſeemeth to be, according to that, *Pontifices ſacri quibus eſt commiſſa poteſtas.* Concerning the [y] number of them, only four were appointed by *Numa*, all which then were to be choſen out of the *Patricii*: afterward four more were added out of the Commons. Theſe were called *Pontifices majores*, or chief Pontifies, to diſtinguiſh them from ſeven other, which afterward *Sylla* added, and [z] called them *Pontifices minores*, inferiour Pontifies. The whole Company of them was called the Colledge of Pontifies. The Colledge is priviledged from all allegiance, being not bound to render account of their doings either to the Senate or Commonalty. They were to determine all queſtions concerning Religion, as well between their Prieſts as between private men: they had authority to puniſh any inferiour Prieſt, if he either detracted or added unto thoſe Religious Rites which were preſcribed him. They had their great Pontifie, whom they called *Pontificem Maximum.* Theſe Pontifies were wont to exceed in their diet, inſomuch that when the Romans would ſhew the greatneſs of a feaſt,

[x] Plutar. in Numa.

[y] Feneſt. de ſacerd.

[z] Roſin. ant. l. 3. c. 22.

feaſt, they would ſay it was *Pontifica cœna, i. e.* according to our Engliſh phraſe, a feaſt for an Abbot. *Cœna adjucialis* is taken for the ſame. *a Lipſius* in the expoſition of the latter phraſe taxeth the Printers negligence, and is of opinion, that it ſhould rather be printed, *Cœna aditialis*, underſtanding hereby a ſolemn feaſt made by Magiſtrates *in aditu honoris*, at their entrance into their office, and at their day of inauguration.

a Lib. 4. de magn. Rom. c. 9.

CAP. 16.
De Epulonibus.

THe Pontifies in old time appoined three men, whom they called *b Trium viros Epulonum*, (from *Epulum* a feaſt) to have the overſight of the feaſts made at ſacrifices; afterward by reaſon of two twice added, they were called firſt *Quinque-viri*, and at length *Septem-viri Epulonum*.

b Lazius de Repub. Rom. l. 3. cap.

CAP. 17.
De Titis.

ANother ſort of religious men there were, which lived in the Suburbs of the City, and practiſed Sooth-ſaying; they were called *c Titii* from the name of the birds which they obſerved: which in Latine were called *Titiæ*.

c Pancirol. l. rerum deperdit. c. de mole Had. iani.

CAP. 18.
De Virginibus Veſtalibus.

NEar unto *Caſtors* Temple ſtood the religious Houſe or Nunnery, dedicated to the Goddeſs *Veſta*: where at the firſt were four, after ſix Virgins, or Votaries elected, whoſe office was chiefly to keep the ſacred fire; the extinction whereof proved ominous, and did portend ſome evil event ſhortly to happen. And therefore for their negligence herein, as for all other ſmall faults, they being had into a dark corner, ſtripped naked, and a cur-

a curtain drawn half way over them, the chief Pontifie scourged them: neither was it lawfull to kindle the fire once put out, with any other fire, but from the Sun-beams; for which purpose they had certain instruments named c σκαφεία, which were formed in the manner of a *pyramis*, but hollow; so that the beams being collected within the circumference, and meeting in the *vertex*, did easily kindle any combustible matter put into it; but chiefly if the matter was of black colour; because, as Philosophy teacheth, a dark colour doth congregate, or collect the beams, whereas whiteness doth disperse them. A second part of their office was to work reconciliation between parties offended; as appeareth by *d Suetonius*, where we may read, that by their intercession *Sylla* was reconciled to *Cæsar*. They were chosen into this place between the sixth and the eleventh year of their age: and they were to remain in this Nunnery thirty years space, ten years to learn their ceremonies, and mysteries, ten years to exercise them, and ten years to instruct others: within which space if they had suffered their bodies to be defiled, they were to undergo that fearful punishment * afore-mentioned. But these thirty years being expired, marriage was lawful for them; so that they laid aside their scepters, their fillets, and other their sacerdotal ornaments. Notwithstanding those which did marry, in the end died fearful deaths: whereupon they chose rather to abstain commonly. The Romans had them in great honour, so that they never walked abroad, but with an iron scepter in their hands, and whatsoever malefactor met them (if the Nun would take her oath it was by chance) he escaped punishment. They were named *Vestals* from their Goddess *Vesta*, which word (as *e Munster* writeth) is derived from the Hebrew *Radix* signifying fire. The eldest was called *Maxima Vestalis Virgo*, i. e. the Lady Prioress, or chief governess.

c Plutarch. in Numa.

d Suet. in Julio.

* Vid. sup. p. 14.

e Munst in sua Cosmog. l. 2. c. 9.

CAP.

CAP. 19.

De veterum ſacrificiis, & ritu ſacrificandi.

WHatſoever was burnt or offered up unto the Gods upon an Altar, it had the name of a ſacrifice: and ſometimes it was called *victima*, *quod vincta ad aras ſtabet*, becauſe the beaſt to be ſacrificed ſtood bound unto the Altar; ſometimes *Hoſtia*, from an abſolete verb *Hoſtio*, which is to ſtrike, becauſe certain under-officers called in Latine *Popæ* (ſtanding by the Altars, all their upper part naked, and a Laurel garland upon their head) did *Hoſtirae victimam*, i.e. ſtrike down and kill the ſacrifice. Others are of opinion, that this name *Hoſtia* is taken from *Hoſtis* an enemy, according to that of *Ovid*, *Hoſtibus à domitis hoſtia nomen habet*; becauſe either before war, to procure the Gods favour, or after war, in token of thankfulneſs, they did *hoſtiam ferire*, i. e. offer up the ſacrifice. The ſecond difference of ſacrifices hath been occaſioned in reſpect of the time, and ſo they have been called *præcidaneæ*, or *ſuccidaneæ*, *quaſi præcedaneæ & ſuccedaneæ*. Thoſe ſacrifices which were offered up the day before any ſolemn ſacrifice, were called *præcidaneæ hoſtiæ*, fore-ſacrifices, as we Engliſh *præcurſorem*, a fore-runner: which fore-ſacrifices, if by any token they found unlucky, then would they offer up a ſecond ſacrifice, which they termed *hoſtiam ſuccidaneam*; and becauſe theſe ſecond ſacrifices were to be offered only in ſtead of the other, when they were unlucky or faulty, hence hath *Plautus* uſed this ſpeech, *meum tergum ſtultitiæ tuæ ſubdes ſuccidaneam?* Muſt I be whipped for thy fault? The manner of ſacrificing was as followeth; ſome certain days before any ſacrifice was to be performed, the Prieſt was wont to waſh his whole body, *f* eſpecially his hands and feet, which if he had not waſhed, the ſacrifice was accounted polluted: and alluding unto this cuſtom, we ſay, a man doth

f Vid. Eraſm. Adag.

doth *Accedere ad rem illotis manibus*, or *illotis pedibus*, as often as he enterpriseth any business without due reverence or preparation thereunto.

Μηδ' ἐπὶ νηὸν ἴμεν ποσὶν ἄνιπτα νίζεσθαι
Κρήνης ἐξαίσιον. Hesiod. Ἔργων ἡμέρ.

Moreover, the Priest was to abstain from his Marriage-bed, as likewise from divers kinds of meats, and at the time of his going to sacrifices, either himself, or some inferiour Sexton going before him with a rod or wand in his hand (called *commentaculum*) *g* used this form of words unto the people, *Hoc age*, attend this you are about: which custom seemeth to have had its original from the *Grecians*; for before the time of sacrifice, the *Grecian* Priest used almost the like speech unto his people, as ἔστι δέ, *i. e.* who is here? the people answered, πολλοὶ καγαθοὶ, *i. e.* many men and good. After this preparation, then did the Priest, laying his hands upon the Altar, rehearse certain Prayers *h* unto the God *Janus*, and the Goddess *Vesta*, because the Romans were perswaded, that without their intercession, they might not have access unto the other Gods: his prayer being ended, then did he lay *i* upon the beasts head a little Corn, together with a Cake made of meal and salt, called in Latine *Mola*, *k Mola erat far coctum, sale aspersum.* From this ceremony the act of sacrificing hath been termed *Immolatio*. After this the Soothsayer drank wine out of an earthen or wooden Chalice, called in Latine *Simpulum*, or *Simpuvium*. It was in fashion much like our Ewers, when we pour water into the Bason. This Chalice was afterward carried about to all the people, that they also might *libare*, *i. e.* lightly taste thereof, which Rite hath been called *Libatio*. Now every one having tasted thereof, the rest of the Wine, with Frankincense mixt in it, was to be poured upon the beasts head, *m* between the horns, one crying out with a loud voice, *Macta est hostia*, *i. e. magis aucta*, more increased and made more pleasing to the Gods; as *Virgil* saith, *Macte nova virtute*

g Plut. ch. Numa.

h Serv. Acc. lib. 1.

i Pancirol. l. rerum deperdit. c. de sale Ammoniaco.

k Textor. in sua officina Sparga salsa collataurorum mola. Sen. Oedip. Act. 2 scen. 2

l Pancir. lib. rerum deperd. c. de Ammoniaco sale.

m Media inter cornua fudit. Virg. Æneid.

virtute puer, i. e. O good child which increaseſt in vertue. And hence, even from this term, we may conjecture that the word *Macto*, which ſignifieth to kill, and ſometimes to Sacrifice, hath had its original, becauſe they did immediately after that voice, *mactare hoſtiam*, that is ſlay the Sacrifice; and that was done in this manner; *n* Firſt the Prieſt did pluck off ſome of the beaſts hairs between the horns, and caſt them into the fire, calling them his *prima libamina*, i. e. his firſt offerings: Then did he, turning his face towards the Eaſt, draw a long crooked knife upon the beaſts back, commanding his underofficers, which I called *Popæ* (others *Cultarii* from their knife; *Victimarii*, from the hoaſt; and *Agones*, becauſe they ſtanding ready to give the ſtroak, often uſed this word *Agon*, for *Agone*, i.e. Muſt I to my work?) to kill the beaſt. The other people ſtanding by, ſome did with veſſels ſave the blood, others did flea or skin the beaſt, others waſhed it. Anon, ſome Soothſayer or Prieſt did obſerve the entrails, turning and winding them with a knife, which was called *Seceſpita*, *à ſecando*: for he might not touch them with his hand, they conceiting, that if the Sacrifice had proved polluted, his hand would then have periſhed. Now after the Sooth-ſayer or Prieſt had ſufficiently turned the entrails, and found no ill token therein, then did thoſe *Popæ* or Church-butchers, cut off from every bowel ſome portion, which after they had rolled in barly meal, they ſent it in baskets to the Prieſts, and the Prieſts taking it up into a broad charger or platter, called *diſcus*, or *lanx*, laid it upon the Altar, & burnt it, and *o* this was properly termed *litare* or *reddere*, i. e. to Satisfie by Sacrifice, or to pay the Sacrifice which was owing unto the Gods. After that the portion laid out for the Gods had been burnt, then did all the people repair unto a common feaſt; where, as they were eating, they ſung Hymns and Songs in the praiſe of their Gods, and playing on Cimbals, they danced about the Altars, intimating thereby, that there was no part of their body,

n Roſin. ant. l. 3. c. 33.

o Joac. Camerar. pro Flac.

but ſhould be employed in the ſervice of their gods. Now until all their Ceremonies and Myſteries were finiſhed, it was not lawful for any to taſt of this feaſt: inſomuch that we ſince have uſed to check a glutton, or greedy-gut which cannot abſtain from his meat till grace be ſaid, in this manner, *Sacra haud immolata devorat.*

CAP. 20.

De Nuptiis, & nuptiarum renunciatione.

SEeing that Marriages and Burials have ſuch dependance upon the Prieſts, it will not be amiſs to conclude this Section with two Chapters, briefly opening the Ceremonies of both. Before we come to the ſolemn Ceremonies uſed by the *Romans* in their Marriages, we will firſt ſhew the manner of their contracts, which were called by the *Romans* a *Sponſalia*, *à ſpondendo*, becauſe in their contracts each did promiſe other to live as man and wife. Now the manner of contracting was commonly thus: They had for the greater ſecurity, writ down the form of the contract upon tables of record, as appeareth by *Juvenal, Sat. 6.*

Si tibi legitimis pactam, junctamq; tabellis
Non es amaturus ——

[a] Salmuth. in Pancirol. l. rerum deperdit. cap. de nuptiis.

These tables were alſo ſealed with the ſigners of certain Witneſſes there preſent, who were termed from their act of ſealing, *Signatores*. Moreover, before they would begin the Ceremonies of their contract, the man procured a Soothſayer, and the woman another, with whom firſt they would conſult. Whence *Juvenal, Sat. 10.*

—— *Veniet cum ſignatoribus auſpex.*

The token or ſign which theſe Soothſayers in time of obſerving accounted moſt fortunate was a Crow: [b] *Ea enim cornicum ſocietas eſt, ut ex duobus ſociis altera extincta, vidua altera perpetuo maneat.* The man alſo gave in token of good will a ring unto the woman, which ſhe was to wear upon the next finger unto the little finger of the left hand,

[b] Alex. Gen. dier. l. 3.

hand, *c* becauſe unto that finger alone, proceedeth a certain artery from the heart. The word *Nuptiæ*, which ſignifieth marriage, had its derivation *à nubo*, *d* which verb in old time ſignified to cover: the cuſtom being, that the woman ſhould be brought unto her husband with a *e* yellow vail (called *Flammeum*) caſt over her face. Again becauſe of the good ſucceſs that *Romulus* and his followers had in the violent taking away of the *Sabine* women, *f* they continued a cuſtome, that the man ſhould come and take away his wife by a ſeeming violence, from the lap or boſome of her Mother, or next kin. She being thus taken away, her husband did diſſever and divide the hair of her head with the top of a ſpear, wherewith ſome Fencer formerly had been killed. This ſpear was called by them *Haſta cælibaris*, *g* and the Ceremony did betoken, that nothing ſhould diſ-joyn them but ſuch a ſpear, or ſuch like violence. The next day after the Marriage, a ſolemn feaſt was held, where all the Bride-mans and Bride-womans friends met to make merry; this feaſt they called *Repotia*. We muſt note, that *h* three manner of wayes a woman became a mans lawful wife: *Uſu*, *Confarreatione*, *Coemptione*. A woman became a mans lawful wife, *Uſe*, *i. e.* by preſcription or long poſſeſſion, if that ſhe were wed with the conſent of her overſeers, and ſo did live with the man, as with her lawful husband, a wholes yeares ſpace, *nullo interrupto uſu*, i. e. ſhe being not abſent from him three nights in the whole year: *i* & ſome have thought, that the counterfeited violence in taking away the Maid from her friends, was uſed onely in this kind of marriage. A woman became a mans wife *confarreatione*, i.e. by certain ſolemnities uſed before a Pontifie, or chief Biſhop, when the woman was given unto the man, uſing a ſet form of words, ten Witneſſes being preſent, and a ſolemn Sacrifice being offered, at which the couple married ſhould eat of the ſame barley cake which formerly had been uſed in the Sacrifice. Which Sacrifice was termed, *à farre*, *confarreatio*; and the marriage

c Aul. Gel.

d Roſin. ant. l. 5. c. 37.

e Plin. l. 21. c. 8.

f Sig. de jure Rom. l. 1. c. 9.

g Salmuth. in Pancirol. lib. rerum deperdit. cap. de nuptiis.

h Boeth. Topi cor. 2. vid. Cœl. Rhod. l. 28. c. 17.

i Sig. de jur. Rom. l. 1. c. 9.

it self *Farratia*, *k* and sometimes *Sacra*, simply; the dissolution of this kind of marriage *Diffarreatio*. A woman became a mans wife, *Coemptione*, i. e. by buying and selling, when the woman did under feigned form of sale buy her husband, by giving him a peice of coyn. *Veteri Romanorum lege, nubentes mulieres tres ad virum asses ferre solebant: atq; unum quidem, quem in manu tenebant tanquam emendi causa marito dare.* *l* To these three some teach, that a fourth sort of marriage was in use among the *Romans*; Namely, when a woman became a mans wife, *Sortitione*, by a kind of Lottery: and of this they say *m Sueton* speaketh. *n* In that kind of marriage which was *per Coemptionem*, the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia*, in the memory of the chast and happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priscus*; from whence sprang a custom among them, that the new married wife, when she was brought home unto her husbands house, was to use this Proverb, *Ubi tu Caius, ibi ego Caia*, by which word she signified, that she was now owner of her husbands goods, as well as himself: and therefore *Erasmus* hath expounded that saying by these words, *Ut tu dominus, ita ego domina*; *o* And she that was thus married *per coemptionem*, was properly called *Mater-familias*. *p* If any of these Ceremonies were omitted, then was the marriage termed *Nuptiæ innuptæ*, in which sense we call our enemies gifts no gifts, Ἐχθρᾶς δωρεὰς δώρα. These ceremonies being ended, towards night the woman was brought home to her husbands house with five Torches, signifying thereby the need which married persons have of five Gods, or Goddesses, *i. e. Jupiter, Juno, Venus, Suadela*, and *Diana*, who oftentimes is called *Lucina*, the reason of the name being rendred by *Ovid*.

k Cic. orat. pro Muræn.

l Sig. de jur. Rom. l. 1. c. 9.

m Suet. in Tib. c. 35.

n Cic. orat. pro. Muræn. It. Fr. Syl. Ibidem.

o Cœl. Rhod. l. 28. c. 17.

p Hier. Ferarius in Phil. pic. orat.

— *Dedit hæc tibi nomina lucus,*
Aut quia principum tu Dea Lucis habes.

There are of opinion, who think that the use of these Torches

Torches was not only to give light, but to represent the element of fire: for no marriages were thought happy, which were not contracted *Sacramento ignis & aquæ*; for which reason the custome likewise was to besprinkle the new married woman with water; yea, they did both in the time of their contract touch water and fire provided for that purpose. The signification of this ceremony, some think to be thus; The fire, because it is an active element to represent the man; The water, because it is passive, to represent the woman. Others say, that in the community of these two elements, was intimated the community between man and wife, of all other their goods and possessions, which was more fully declared in that fore-quoted Proverb, used by the wife, *Ubi tu Caius, ibi ego Caia.* The matter whereof these Torches were made, was a certain tree, from which a pitchy liquor did issue: it was called *Teda*, and thence have the Poets figuratively called both the Torches and the Wedding it self *Tedas*. When the woman had been thus brought to the door, then did she anoynt the posts of the door with oyle, *q* from which ceremony the wife was called *uxor*, *quasi unxor*. This ceremony of anointing being ended, the Brideman did lift her over the threshold, and so carried her in by a seeming force, because in modesty she would not seem to go without violence into that place, where she should lose her Maiden-head. At her carrying in, all the company did cry out with a loud voice, *Talassio, Talassio*, for which custom, *r Plutarch* alleadgeth many occasions; this being one. Among those who ravished the daughters of the *Sabines*, there were found some of the meaner and poorer sort, carrying away one of the fairest women; which being known, certain of the Citizens would have taken her from them, but they began to cry out, that they carried her to *Tallassius*, a man well beloved among the Romans; at which naming of *Talassius* they suffered her to be carried away, themselves accompanying her, and often crying *Talassio, Talassio.*

Pancirol. lib. rerum. deper. dit. cap. de Nuptiis.

q Serv. Æn. l. 4.

r Plutar. vit. Pompeii.

From

From whence it hath been continued a cuſtom among the Romans, ever at their marriages to ſing *Talaſſio, Talaſſio*, as the Greeks did *Hymen, Hymen*. From this cuſtom of leading or bringing home of the new married Bride, cometh that Comical phraſe, *Ducere uxorem*, to marry a Wife. She being thus brought home, received the keys of her husbands houſe, whereby was intimated, that the cuſtody of all things in the houſe, was then committed unto her. ſ The marriage bed was called *Genialis lectus*, as we may ſuppoſe, *quaſi Genitalis*. t Sometimes it was called, *Lectus adverſus, quod hunc lectulum religioſe ſervari mos fuit, & in atrio collocari januæ ex adverſo*, i. e. they placed this bed in the Court, directly oppoſite to their gate, keeping it as ſome religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman received gifts of her friends, which the Lawyers terme *Nuptiala dona*. u But *Cicero* expoundeth theſe *Dona Nuptialia*, to be certain tokens, which the husband ſent to his wife before the betrothing. If after the marriage any diſcontent hath faln out between the man and his wife, * then did they both repair to a certain Chappel, built in the honour of a certain goddeſs, called *Dea viri-placa, à viris placandis*. Whence after they had been a while there, they returned friends. We have thus ſeen the Rites and Ceremonies which the Romans uſed in their contracts and marriages; it would not be impertinent to annex the manner of their divorcements, which upon juſt cauſes were permitted. x There were two manner of divorcements, the one between parties only contracted, the ſecond between parties married. The firſt was properly called *Repudium*, in which the party ſuing for divorcement uſed this form of words, *Conditione tua non utar*. The ſecond was called *Divortium*, wherein the party ſuing for it, uſed theſe words, *Res tuas tibi habeto: vel res tuas tibi agito*. Both theſe kinds were termed *Matrimonii renunciationes*, renouncing or refuſal of marriage. Where me muſt note, that in ſtaed

ſ Alex. Gen. dier. l. 2. c. 5.
t Lipſ. Elect. l. 1. c. 17.
u Vid. F. Syl. pro Cluent.
* Sig. de jur. Rom. l. 1. c. 6.
x Roſin. ant. l. 5. c. 38.

of this verb *renunciare*, divers good Authors doe use this phrase, *Mittere*, or *Remittere nuncium*: as *C. Cæsar Pompeia nuncium remisit*, *C. Cæsar* hath divorced *Pompeia*. And alluding hereunto *y Cicero* saith, *Virtuti nuncium remisit*, i. e. he hath cast off all goodnes, he hath even divorced vertue. Secondly, we must note, that this verb *Renuncio*, doth not only signifie to renounce or to refuse, but many times in *Tully* it signifieth to declare or pronounce a Magistrate elected, as *Renunciare Consulem Prætorem*, &c. The reason why in matrimonial contracts it signified to renounce or refuse, was because in these divorces they did oftentimes send to their wife, *per nuncium*, by a messenger, some bill or scrole of Paper, containing the causes of the divorce. Moreover we are to observe, that in these divorces, the Ceremonies were quite contrary to those in Marriages; the just causes of being fore-signified to the Censors, the Marriage tables were broken, the dowry restored, the keys of the house taken from the woman, and she turned out of doors: all which Ceremonies are at large treated of by *Tho. Dempster. l. 5. Antiq. Rom. c. 38.*

y Ep. fam. l. 5.

CAP. 21.

Quo apparatu, quibusq; ceremoniis apud veteres defuncta corpora igni tradebantur.

THe Romans in ancient time, when they perceived a body dying, had such a custome, that the next of the kin should receive the last gasp of breath from the sick body, into his mouth, as it were by the way of kissing him: (to shew thereby how loath and unwilling they were to be deprived of their friends) and likewise should close the eyes of the party being deceased. Whence *Anna* said unto her sister *Dido* now dying,

— z *Extremus si quis super halitus errat*, z Virg. Æn. 4.
Ore legam — —

And *Penelope* wishing that her son *Telemachus* might outlive

live her self and his Father, writeth to her husband in this manner, *Ille meos oculos comprimat, ille tuos.*

After the body had thus deceased, they kept it seven days unburied, washing the corps every day with hot water, and sometimes anoynting it with oyle, hoping that if the body were only in a slumber, and not quite dead, it might by these hot causes be revived.

Per calidos latices aliena undantia flammis
Expediunt, corpusq; lavant frigentis & ungunt.

In these seven days space, all the dead mens friends met together now and then, making a great out-cry or shout with their voices, hoping that if the dead body had been only in a swoon or sleep, he might thereby be awaked. This action was termed *conclamatio*; Whence when we have done the best we can in a matter, and cannot effect it, we say proverbially *conclamatum est*, for this third conclamation or general outcry (which was always upon the seventh day after the decease) was even the last refuge, at which if the body did not revive, then was it carried to burial being invested with such a gown as the parties place or office formerly had required. Those who had the dressing, chesting, or embalming of the dead corps, were called *Pollinctores*: After they had thus embalmed the corps, they place it in a bed fast by the gate of the dead mans house, with his face and heels outward toward the street, according to that of *Persius*.

—— *Tandemq; beatulus alto*
Compositus lecto, crassisque lutatus amomis,
In portam rigidos calces extending ——

Herewith accordeth *Homer*, speaking of *Patroclus* his Funeral,

Ὅς μοι ἐνὶ κλισίῃ δεδαίγμενος ὄξεϊ χαλκῷ
Κεῖται ἀνὰ προθύρου τετραμμένος —— *i. e.*
Qui mihi in tabernaculo confessos acuto ære
Jacet ad vestibulum conversus.

This ceremony was properly called *corporis collocacio*: and fast by this bed near the gate also was erected an Altar,

tar, called in Latine *t Acerra*; upon which his friends did every day offer incense until the burial: The gate on the outside was garnished with Cypress branches, if the dead man were of any wealth or note, for the poorer sort by reason of the scarcity of the tree, could use no such testimony of their mourning. t Alex. Gen. dier. l. 3. c. 7.

u *Et non plebeios luctus testabat cypressus.* u Lucanus.

In these seven days space, certain men were appointed to provide all things in readiness for the funeral; which things were commonly sold in the *x* Temple of *Libitina*, from whence those providers were termed *Libitinarii*, though sometimes this word *Libitinarius* doth signifie as much as *capularis*, an old decrepit man ready for the grave. Upon the eighth day a certain Crier in the manner of a Belman went about the Town to call the people to the solemnization of the funeral in this form of words; *Exequias* y *L. Tito L. Filio quibus est commodum ires. Jam tempus est. Ollus ex ædibus Effertur.* After the people had assembled themselves together, the bed being covered with purple, or other rich covering, the last conclamation being ended, a Trumpeter went before all the company, certain poor woman called *Prefica* following after, and singing songs in the phraise of the party deceased: where we must note, that none but the better sort had a Trumpet sounded before them; others had only a Pipe; z *Senatoribus & patriciis tuba, minoribus & plebeiis tibia canebant fiticines*, this word *Siticines*, signifying either a Trumpeter or Piper, because they did both *ad fitos*, i. e. *mortuos canere*. Again, except it were one of the Senators, or chief Citizens, he was not carried out upon a bed, but in a Coffin upon a Bier. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselves to bear the corps; and becaus the poorer sort were not able to undergo the charges of such solemnities, thereupon were they buried commonly in the dusk of the evening, and hence *à vespertino tempore*, those that carri-

x Alex. Gen. dier. l. 5. c. 26.

y Rosin. ant. l. 5.

z Alex. Gen. dier. l. 3.

ed the corps were termed *vespæ*, or *vespillones*. In the burial of a Senator or chief Officer, certain waxen images of all his Predeceſſors were carried before him upon long poles or ſpears, together with all the enſigns of honour which he deſerved in his life time. Moreover, if any ſervants had been manumized by him, they accompanied the mourners, lamenting for their maſters death. After the corps, followed the dead mans children, the next of kin, & other of his friends, *atrati*, i. e. in mourning apparel. From which act of following the corps, namely *à ſequendo*, theſe funeral rites have been termed *Exequiæ*, as *Donat* hath obſerved upon that of *Terence*, *Funus interim procedit, nos ſequimur*. Which rites, becauſe they were performed as debts due unto the party deceaſed, hence were they alſo called *Juſta*. *Eo dicuntur juſta, quod jure mortuis facĭitari debent à vivis. Polid. de invent. l. 6. c. 9.* The corps being thus brought unto their great Oratory called the *Roſtra*, the next of the kin *a laudabat defunctum pro roſtris*, i. e. made a funeral Oration in the commendation principally of the party deceaſed, but touching the worthy acts alſo of thoſe his Predeceſſors, whoſe images were there preſent. The Oration being ended, the corps was in old time carried home again in manner as it was brought forth.

a Suet. C Jul. Cæſar, c. 6.

Sedibus hunc referente ſuis & conde ſepulchro.

But afterward by the law of the twelve tables, it was provided, that no man beſides the Emperor and Veſtal Nuns ſhould be buried within the City, though ſome upon eſpecial favour have obtained it. The manner of their burial was not by interring the corps, as in former times it had been, but burning them in a fire, *b* the reaſon thereof being to prevent the cruelty of their enemies, who in a mercileſs revenge would at their conqueſts dig up the buried bodies, making even the dead alſo ſubjects of their implacable wrath. This fire before the burning was properly called *Pyra*; in the time that it burned, it was called *Rogus*, *c quod tunc temporis*

b Salmuth. in Pancirol. li. rerum de perdit. de exequiis.

c Serv. Æn. 5

Rogari

Rogari solerent Manes; after the burning, then was it called *Bustum, quasi bene ustum.* This *Pyra* was alwaies built in form of a Tabernacle, as it is *above more at large to be seen; whither after the dead man had been brought, his friends were wont to cut off one of his fingers, which they would afterward bury with a second solemnity. The charges at funerals growing by this means to be doubled, the law of the 12. Tables provided in these words, *Homini mortuo ossa ne legito, &c*, that no mans finger should be cut off, except he died either in the war, or in a strange country. Where we must observe, that *lego* in this place doth signifie as much as *adimo* or *aufero*, in which sense we call him *sacrilegum, qui legit*, i. *qui adimit & aufert sacra.* After the dead body had been laid upon the *Pyra*, then were his eyes opened again to shew him heaven, if it were possible: *d* and withall an half-penny was put in his mouth, they superstitiously conceiting that that half-penny was *naulum Charontis*, the pay of *Charon* the supposed ferry-man of Hell, who was to carry mens souls in his boat over the *Stygian* Lake after their decease. About this *Pyra* were many boughs of Cypress trees to hinder the evil scent of the corps to be burned. The dead body being thus laid upon the *Pyra*, the next of the kin turning his face averse from the *Pyra*, did kindle the fire with a torch: After this, commonly certain Fencers hired for this purpose did combate each with other, till one of them was killed, they were termed *bustuarii* from *bustum.* The blood of those that were slain, served in stead of sacrifice to the infernal Gods, which kinde of sacrifice they termed *Inferiæ*. *e* *Inferiæ sunt sacra mortuorum quæ inferis solvuntur.* Anon after the body had been buried, his neerest friends did gather up the ashes and bones, which being washed with milk and wine, were put into certain Pitchers called *urnæ*: whence this word *urna*, is often used by the Poets, to signifie a Grave or Sepulchre, as

— *Una requiescit in urna*: Ovid. *Met. lib.* 4.

* Vid. sup. p. 30.

d Alex. Gen. dier. l. 3.

e Servius.

Though properly *sepulchrum* was in old time a vault or arched roof, round about the Walls whereof were placed certain coffins called *loculi*, within which those former *urnæ* were laid up and kept, namely, two or three in each coffin. Now these funeral solemnities were commonly towards night, insomuch that they used torches; these torches they properly called *g funalia à funibus cera circundatis*, *unde & funus dicitur*. *h* Others are of opinion, that *funus* is so said from the Greek word φόνος, signifying death or slaughter. The bones of the buried body being thus gathered up, then did the Priest besprinkle the company with clean water thrice, and the eldest of the mourning women called *Præficæ*, with a loud voice pronounced this word *Ilicet*, thereby dismissing the company, (the word signifying as much as *Ire licet*;) Then presently did the company depart, taking their farewel of the dead body in this form of words: *Vale, vale, vale; nos te ordine quo natura permiserit sequemur*. If any of these ceremonies had been omitted, *i* then was it termed *sepultura insepulta*, in the same sense as *nuptiæ* formerly were termed *innuptæ*. The old and aged men were invited, after the burial, to a feast, or funeral banquet, called *silicernium* k *quasi silicanium*, i.e. *cena supra silicem posita*, their custom being to eat that feast upon an Altar of stone; and because this feast was only eaten at funerals, and by the elder sort, *l* hence figuratively this word *silicernium* doth sometimes signifie an old cripple ready for the grave. The poorer people in stead of a feast, received a dole or distribution of raw flesh: this dole was termed *Visceratio*. Moreover there was a pōtation, or drinking of wine after the burial, called *Murrata*, or *Murrhina potio*, which afterwards the law of the 12. Tables for the avoiding of expences did prohibit, as likewise for the moderating of grief in the mourners, it did prohibit the use of this word *Lassum*, [*Neve lassum funeris ergo habento*] for that word was often ingeminated in their mourning as a doleful ejaculation, or note

f Rosin ant. l. 5.

g Servius in Æneid. l. 1.

h Hub in Cic. ep. fam. l. 4

i Hier. Ferarius in Cic. orat. Philip

k Servius in Æneid. l 5.

l Antesig. in Ter. Adelph. Act. 4.

of

of inward ſorrow. This ſorrowing or mourning was in ſome caſes utterly prohibited, in others limited; *m* namely, an Infant dying before he was three years old, ſhould not be mourned for at all; becauſe he had ſcarcely yet entred into this life. Elder perſons were to be mourned for ſo many days as they were years old. Wives were permitted to mourn for their husbands (*Alexander* addeth alſo children for their fathers) ten moneths, if they would, within which time the widow could not marry another husband without infamy and diſcredit. *Polyd. de Juven. l. 6. c. 9.* Here we may with *Reyardus* obſerve a diſtinction between *Lugere* and *Elugere*; *Lugere* ſignifieth no more than to mourn ſome part of the time preſcribed, *Elugere* to mourn the whole and full time.

m Alex. Gen. dier. l. 3. c. 7.

LIB. II. SECT. III.

Of the Romans *Games.*

CAP. 1.

De ludis Megalenſibus.

THe Playes uſually exhibited by the Romans, may de divided into three ſorts; ſome were *Ludi ſacri*, others *Honorarii*, others *Ludicri*. Thoſe were termed *Sacri*, which were inſtituted immediately to the honour of the Gods: Such were theſe that follow in their ſeveral Chapters. *Megalenſes ludi*, they are called ſimply *Magaleſia*, from the Greek word μέγας, ſignifying *Magnus*, becauſe they were performed in the honour of *Cybille*, called *Magna mater*: of which I have ſpoken formerly, and there alſo diſcovered the manner of this feaſt. Only here take notice of that which is not mentioned there, namely, that theſe Games began *à pridie Nonas Aprilis*, i. e. on the fourth of *April*, and continued ſix days after: as appeareth by divers Authors, but more eſpecially by *Ovid*, who could not eaſily be corrupted, *Ovid. Faſt. lib.* 4. He having ſpoken of the riſing of the *Pleiades*, which is on the ſecond of *April*, addeth.

Ter

Ter ſine perpetuo cœlum verſetur in axe,
Ter jungat Titan, terq; reſolvat equos,
Protinus inflexo Berecynthia tibia cornu
Flabit, & Ideæ feſta parentis erunt.

This I note, that the errour crept into *a Livy* may be obſerved, who treating of the matter in hand, ſaith, *In eadem victoriæ, quæ eſt in Palatio, pertulere Deam pridie Idus Aprilis, iſq; dies feſtus fuit: populus frequens dona Deæ in Palatium tulit; Lectiſternium, & Ludi fuere, Megaleſia appellata.* That is, that theſe Playes were celebrated upon the twelfth of *April.* But in the judgement of many Expoſitors, we are to read *Pridie Nonas* for *Pridie Idus.* Moreover, ſervants might not be ſpectators here. And becauſe the *Prætors* did frequent theſe ſports in their purple and beſt robes, *b* hence grew that Proverb *Purpura Megalenſis.* To the younger ſort at this time, liberty was granted to counterfeit all mens geſtures and ſpeeches, without diſtinction of degree or age. *c* They were ſometime termed *Ludi ſcenici*, though properly, *Ludi ſcenici* ſignified Stage-plays, and were performed in the honour of *Bacchus.*

a Liv. l. 29.

b Ant. Conſt. in Ovid. Faſt. l. 4.

c Jul. Scalig. Poet. l. 1. c. 39

CAP. 2.
Ludi Cereales.

THat theſe Games were performed in the honour of *Ceres*, is by none doubted. In them was repreſented by the *Roman* Matrons, *Ceres* her lamentation for her daughter *Proſerpina*, taken away by *Pluto*; the *Roman* men beheld theſe plays in white gowns: the women performed the ſacred and holy Rites in a white garment alſo. Among whom it was obſerved, that then they thought their ſervice grateful to the Gods, when it was performed by thoſe that were joyful, and free from all funeral pollutions. At this time there was a ſolemn going in proceſſion, and carrying about their Gods in the Cirque, this ſolemnity was properly called *Pompa.*

Circus

Circus erat Pompa celeber, numeroq; Deorum,
Primaq; ventosis palma peretur equis,
Hic Cereris ludi, &c. Ovid. Fast. l. 4.

The manner of this solemn shew, which, as I noted, was properly called *Pompa*, is described *d* thus by its particulars; that there was *Simulachrorum series*, *imaginum agmen*, *currus*, *thensæ*, *armamaxæ*, *sedes*, *coronæ*, *exuviæ*, i.e. *First*, in this solemn procession were carried about the Images of the Gods. *Secondly*, the Images of well deserving men. *Thirdly*, Chariots led up and down for greater state and magnificence; unto this *Virgil* alludeth:

Hic illius arma
Hic currus fuit.

Fourthly, Pageants, so I interpret *Thensæ*, which were so called *quasi tensæ à tendendo*, as *e Ascanius* noteth, because they were carried up and down by the help of certain ropes, which to touch they counted a point of Religion. *Fifthly*, horse-litters, for that these *armamaxæ* were not Chariots, or Waggons, appeareth by him. *f Qui ex curru in armamaxam deponebatur.* They seem to have been of a compounded form, in part like Chariots, called ἅρματα, in part like Wains, called ἅρμαξαι, and thence ἁρμάμαξα hath its appellation, ἁρμάμαξα *inquit Phavorinus*, ἡ πρὸς ἀνδρῶν κάθιδραν κατεσκευασμένη ἅρμαξα, ὅν οἱ ἅμα καὶ ἅρμαξα, ἢ ἀνδρόμαξά τις οὖσα ἡ ἄγουσα τοὺς ἀνδρᾶς. In which words, besides the Etymologie expressed, the use hereof is declared to be for the carriage of men. That as Chariots went empty for greater magnificence, and as in their Pageants were carried the *Simulachra Deorum*, according to that, *g Thensæ Deorum vehiculum*: so in these Horse-litters were carried men; or rather that same *agmen imaginum*, which was the second particular. *Sixthly*, Chairs of State. *Seventhly*, Crowns. *Lastly*, Spoils taken from their enemies. These three last I take to have been used chiefly and principally in the *Romans* supplications, or publick thanksgivings for any great victory; the custome being in such shews, when they came to such and such remarkable

d Tert. de spect. c. 7.

e Vid. Franc. Jun. annot. in Ter. de spect. It. de tensis ul. Turneb. 26, 27.

f Herod. 17.

g Alex. ab Alex. l. 2. c. 32.

remarkable places in the Cirque, to pitch a certain chair adorned with Crowns of Victories, & spoils taken from the enemy reputing it not the least office, *b* thus to honor their Emperor, though absent, with the Prerogative of such a Chair. Now in the preparation to this particular shew, we read, that an egg was especially provided. It is observed by *i* many out of *Macrobius*, whose words are; *Ovumq; in Cerealis Pompæ apparatu numerabatur primum.* The observation is general, but the reason thereof, *Inter arcana Cereris*, quite suppressed, and by none that ever I could meet with yet explained: if my conjecture may satisfie in a matter so obscure, conceive it thus: These pompous shews were various, and in the honor of divers gods, and accordingly the *Romans* made choice in every such solemnity, of some one principal thing in their shew, unto which the glory of the present solemnity should in a more especial manner belong. Thus in the *Pompa Circenses*, which was celebrated in the honour of the *k* Sun, great horses were led up and down for greater state; *l Quia equis, & equestribus exercitamentis sol præesse credebatur superstitione antiquissima.* Hence the Cirque-place it self was called *πίτπλιον*, & *ἱππόδρομος*. After this same manner in this *Pompa Cerealis* (which was also sometimes called *Circensis*, from the place where it was exhibited) an egg was chiefly and principally provided: for seeing that under the name of *Ceres*, this solemnity was performed to the *Earth*, how could the *Earth* be more honoured, than by bearing about the Hieroglyphick of the whole World? as if they did intimate thereby, that even Heaven it self was beholden to the *Earth*.

b Vid. Isaac. Causab. in Sueton. Jul. c. 76.

i Hosp. de orig fest. Rosin. l. 5. c. 14. Alex. ab. Alex. l. 6. c. 19.

k Solis honore novi grati spectacula Cerei Antiqui sanxere patres. Corrip. Afric. l. 1. c. 17. vid. Dempst. *l* Franc. Jun. annot. in Ter. de spect. c. 8.

----*Pecori frondes; alimentaq; mitia fruges*
Humano generi, vobis quoq; thura ministro. Ov. Met. l. 2.

And such an Hieroglyphick *m Cœlius Rhodiginus* proveth an egg to be, partly from its circular and Globe-like form, partly from the matter whereof it consisteth; the hard shell resembling the solid earth; the more spiritu-

m Cœl. Rhod. l. 27. c. 17.

ous part thereof, the air; the moist and liquid part, the water; the yolk, the element of fire; yea, he noteth also, as there is *in mundo*, so likewise, *in ovo vis vitalis*, a kind of quickning and enlivening power in both. Otherwise if this opinion give not content, we may interpret the carrying about of the egg, to be in the honour of *Castor* and *Pollux*: for as there were marks, or goals in the Cirque, some in the form of *Dolphins*, in the honor of *Neptune*; so there were others *n* αἰ ει δὴ δημοκρήματα, marks of a long roundness in form of an egg, in memory of *o Castor* and *Pollux*, which were *ovo editi*, according to that of *Horace*;

n Dion. l. 49.

o Tertul. de spect. c. 8.

Ovo prognatus eodem. Hor. Serm. 2. Sat. 1.

For the same reason haply it was, that an egg was at this time carryed up and down, as the chief and principal Ensign.

CAP. 3.
Ludi Florales.

THese games or sports were instituted in the honour of the Goddess *Flora*, that she being therewith appeased, the earth might bring forth flowers and fruits in great abundance. Of the Goddess it hath been spoken before. The time of the year when these sports were observed, *p* was upon the four last days of *April*, and the first of *May*, whence is that of *Ovid. Fast.* 5.

p Alex. ab. Alex. l. c. 8.

Incipis Aprili, transis in tempora Maii;
Alter te fugiens, cum venit alter, habet.

The manner thereof was, that shameless strumpets did then run up and down the streets naked, using many lascivious and obscene gestures and speeches: they were called together by the sound of a Trumpet, unto which *Juvenal* alludeth,

Dignissima prorsus
Florali matrona tuba.

Moreover, whereas in other games, Bores, Lions, & Bears

were

were publickly baited to recreate the ſpectators; here only Goats and Hares, and ſuch milder beaſts were hunted, becauſe the Goddeſs *Flora* had not the cuſtody of Woods and Forreſts, where the wild beaſts ranged, but Gardens and Meadows. At this time alſo Elephants were brought forth into the publick view of the people, which were taught *r* to walk on ropes; and that there is an aptneſs in Elephants to go forward and backward on ropes, *ſ Pliny* teſtifieth.

q Hoſ. de orig feſt.

r Suet. in Gal

ſ Plin. l. 8. c. 3.

CAP. 4.
Ludi Martiales.

OF theſe ſports there is not much ſpoken: they were obſerved upon the firſt of *Auguſt*, becauſe on that day the Temple of *Mars* was conſecrated. They were firſt inſtituted *u* by *Numa Pompilius*.

t Dion. l. 60.

u Tertul. de ſpect. c. 5.

CAP. 5.
Ludi Apollinares.

THere was an ancient Poet called *Martius*, *x* out of whoſe writings, as likewiſe out of the *Sybilline* Oracles, the Romans were admoniſhed to dedicate certain Games to *Apollo*. At the firſt celebration of them, *y* it is reported, that a ſudden and unexpected invaſion of enemies inforced the Roman people to forſake their ſports, and to betake themſelves to weapons; in which time of their deſtruction, a cloud of Darts & Arrowns, was ſeen to fall upon their enemies, ſo that they preſently returned Conquerors unto their ſports, where at their return the found one *C. Pomponius*, an old man, dancing to a Minſtrel, and being very joyful, that their ſports had bin continued without interruption, they cryed forth, *Salvares eſt, ſaltat ſenex*. Which ſpeech after became proverbial, and is fitly uſed, when a ſudden evil, is ſeconded with a good event, beyond hope or expectation.

x Liv. lib. 5. dec. 3.

y Macrob. l. 1. Sat. c. 17.

z Suet Pom. Feſt. vid. Hoſp. de oriz.

CAP. 6.

De ludis Romanis, qui & magni, & Consuales, & Circenses dicti.

THese solemnities are sometimes called *Romani ludi*, because of their antiquity amongst the *Romans* being first instituted by *Remulus*; sometimes *Magni ludi*, either because of the great charge and expence of money at that time, or because they were performed in the honor of their great God *a Neptune*, called also *Consus*, because he was reputed the God of secret *Counsels*, whence the solemnities themselves are sometimes called *Consualia*: whereas many of the *Roman* Temples for certain mysterious significations, had their peculiar manner of building, *b Servius* noteth that the Temple in the great Cirque, dedicated to *Consus*, was covered, to signifie that Counsels must be secret and concealed. Likewise for the same reason, *c* his Altar was made under the earth not appearing in publick view, save onely in the time of these solemnities exhibited. The chief ceremonies used at this time, consisted in the adorning of their horses and Asses with garlands, wherein they thought that *Neptune* was honored, who was the first Author and inventor of horse-riding: hence *Neptune* himself is called ἵππιος. This festival was first instituted by *Evander*, in the honour of *Neptune*, under the name of ἵππιος, and *e* thence the feast was called ἱππικὰ. Afterward it was renewed by *Romulus*, in the honor of *Neptune* likewise, but under the name of *Consus*, because *Romulus* needed a God of Counsel to assist him in that designment of his, for the violent taking away of so many *Sabine* women, as were taken away at the first celebration of these games. The reason of *Romulus* his institution of them, being no other but that upon the fame of these new sports, many *Sabine* women flocking thither to be spectators, his project might be the sooner effected. These and the Cirque

a Tert. de spect. c. 5.

b Serv in. Vir. Æn. l. 8.

c Alex. ab Alex. l. 5. c. 16

d Vid. Suid.

e Dion. Hal. lib. 1.

shews,

shews, so often mention'd in ancient Authors, at first were all one, as appeareth by that of *f Valerius*. *Ad id tempus Circenſi ſpectaculo contenta erat civitas noſtra, quod primus Romulus raptis virginibus Sabinis Conſualium nomine celebravit.* Touching these Cirque-shews, some are of opinion, that they were perform'd in the honor of *Ceres*; this *Julius Scaliger* disliketh, and he is of opinion, they were celebrated in the honor of *Neptune*: others are of opinion, they were instituted in the honor of the *Sun*. All opinions may be reconcil'd, if we understand first, those Authors who ascribe these Cirque-shews to *Ceres*, to speak of the *Cerales Ludi*, which we read sometimes to be called *Circenſes*, because they were exhibited in the Cirque. Secondly, if we distinguish the *Pompa Circenſis* from the *Circenſes Ludi*, and from the *Cereales ludi*: the *Cereales ludi*, were instituted in the honor of *Ceres*; the *Circenſes ludi*, in the honor of *Neptune*; the *Circenſis Pompa* in the honour of the *Sun*. And furthermore, for the full understanding hereof, we must know that the horses brought into the Cirque at this time, were of two sorts: some were only πομπικοὶ, such as were led up and down for shew and state; I understand *Alex. ab Alex.* to speak of these horses, when he saith *h* horses were consecrated to the Sun: nay I understand those horses mentioned, 2 *King.* 23 to have been of the like superstitious invention, where it is said that *Josiah* did put down the horses given to the *Sun* and the *Chariots of the Sun*. That practice I say, hath near affinity with this of the *Romans*, but I think it to have been originally derived to the people of *Judah*, from the *Persians*, who also accounted them holy to the Sun; *i* and the *Persian* King when he would shew himself in great state, caus'd an exceeding great horse to be led up & down, which was called *Equus Solis*. Other horses were for exercise and race, we may call them ἱππικοὶ: the institution of these I suppose to have been in the honor of *Neptune*. The prizes of masteries exercised in time of this Cirque-shew were many; fencing, and

f Val. Max. l. c. 4.

g Jul. Scal. l. poet. c. 32.

h Alex. ab. Alex l. 3. c. 12

i Cœl. Rhod. ant. l. 8. c. 2.

and that untill one of the combatants were killed in the place; fighting with beasts; wrestling, running of races on foot: jumping, & leaping, horse-racing; sea-skirmishes exhibited in some river coach-races, & fighting at whorlebats. How soever the nature and manner of these games are in some measure understood by the very names; yet a more large discourse concerning the two last, will be very behoveful, for the more full understanding of the *Roman* history. These coach-races, when this manner of race was first instituted, were divided into two companies, which they termed, *Factiones albas & russeas*, distinguishing each faction or company by the different color of their coats. Afterward they were divided into four companies, distinguish'd always by their colors, whence came that distinction, *Factiones Prasinæ, Venetæ, Russatæ, Albatæ*, which colours may thus be Englished: The first signifying a deep green: the next a kind of russet inclining to red: the third a *Venice* blew, or Turkey colour, and the last a perfect white. Of these *l Tertullian* speaketh as followeth, *Aurigis coloribus idololatriam vestierunt, & ab initio duo soli fuerunt, albus & russeus. Albus hyemi ob nives candidas, russeus æstati ob solis roborem voti erant: sed postea tam voluptate, quam superstitione provecta russeum alii Marti, alii album Zephyris consecraverunt: Prasinum vero terræ matri, vel verno: Venetum Cœlo & mari, vel autumno.* As the Emperor, so the people sometimes favoured one faction or company, sometimes another: & accordingly as they favoured the company, they would lay wagers on their side, which wagers they temed by a peculiar name *Sponsiones*; thus *m Turnebus* interpreteth *Tertullian*, where he saith, that the people flockt to these races, sometimes for one reason, sometimes for another, but somtimes *n Sponsionibus concitætus, i.e.* stired up with a desire of betting, or laying wagers. To these four *o Domitian* in his time added two other companies, the one wearing cloth of gold, the other of purple; but these latter remain'd not long in use. Their fighting at whorlbats they

k Fen. Salm. in Pancir. c. de Circ. max.

l Tert. de spect. c. 9.

m Turneb. ad l. 8. c. 4.

n Tertul. de spect. c. 16.

o Suet. in Domitian c. 7

they termed *bellare ceſtu.* The manner of the fight conceive thus; the combatants had in each hand a ſtrap of leather, which each ſtruck at the other (for we muſt know, that this kind of fight ſucceeded fiſticuffs; and becauſe in fiſticuffs the party ſtriking, did by the blow as well hurt his own fiſt, as he did him that was ſtrucken, hereupon they invented this other kind of fight with leathern ſwitches) theſe leathern ſwitches they call'd *Ceſtus*, from the Greek κεστὸς, ſignifying a belt or girdle; to make the fight more dangerous, they did in after-times *p* tie pieces of Lead, or Iron, at the end of theſe leathern ſtraps, ſo that they did with the force of the ſtroak, often daſh out one anothers brains; and becauſe by the weight of the Lead or Iron, the ſtrap might chance to fly out of their hands, they cauſed each ſtrap to be tied faſt to their arms & ſhoulders; neither was this without reaſon; for thoſe Iron or Leaden pieces could not be but very weighty, being made in the bigneſs and *q* form of Rams Horns. Laſtly, theſe Cirque ſhews had their appelation *Circenſes*, either from the great Cirque, or ſhew-place, called *Circus Max.* where the games were exhibited; or from the ſwords wherewith the players were enviroued, as one would ſay *Circa enſes.* They much reſembled thoſe *Grecian* games call'd *certamina Olympica*, where the runners with Chariots were hem'd in on the one ſide with the runing river, & on the other with ſwords pitched point-wiſe, that they ſhould hold the race on directly & not ſwerve aſide without danger. Some have thought *r* them to be the ſame with *ludi Gymnici*, ſo called from γυμνὸς, naked; becauſe that thoſe which did perform thoſe kinds of exerciſes, did either put off all, or the greateſt part of their cloaths, to the intent that they might the more readily and nimbly perform their games; for which purpoſe they did alſo anoint their bodies with oil; whence we ſay, when a man hath loſt his coſt & labor *Operam & oleum perdidit*; *olium* in this place ſignifying coſt & charges;

p Jul. Scal. lib poet. c. 22.

q Aldus. Manut. l. 2. de queſt per epiſtolam, ep. 8. vid. Roſin. ant l 5. c. 5.

r Roſin. ant. l 5. c. 5.

ges: so that the proverb was the same with that of the Coblers Crow, *Opera & impensa periit.*

CAP. 7.

Ludi Capitolini, & Agones Capitolini.

THe first institution of these games *r Livy* sheweth, where likewise, he intimateth the reason why they were called *Capitolini*, to have been in the honor of *Jupiter Capitolinus*, because he preserved the *Capitol*, when it was assaulted by the *Gauls*: we must distinguish these games from those other shews called *Agones Capitolini*, instituted by *Domitian*: For those *Ludi* were exhibited yearly, *s* these *Agones* every fifth year: In those was celebrated the deliverance of the *Capitol*: In these Rhetoricians, and Poets, and men of other professions contended for the victory: and hence *t Rosinus* thinketh the *Poets laureat* to have taken their beginning. He is likewise of the opinion that *Juven.* alludeth unto these solemnities.

r Liv. dec. 1. & lib 5.

s Suetn. in Domit. c. 4.

t Rosin ant. l. 5. c. 18.

----*Sed cum fregit subsellia versu,*
Esurit intactam Paridi nisi vendat Agaven. Sat. 7.

Although the allusion may be granted, yet herein I think *Rosinus*, though otherwise learned, to have been mistaken, in interpreting *Fregit subsellia*, by *Non stetit*, *Excidit*, or *Non placuit*: as if the Poet, of whom *Juvenal* speaketh, had been conquer'd at this time. In my opinion neither will the purpose of *Juvenal*, nor that phrase of speech admit that construction. Not the purpose of *Juvenal*; for the scope and drift of that Satyr, is to shew that be the Poet never so pleasing, or let him give full satisfaction to the people, yet he shall receive no benefit thereby, but a vain and empty applause, so that he shall be compell'd to sell those very Poems which are receivd with so general an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phrase: for *Frangere subsellia*, doth rather on the

the contrary, signifie the vehement acclamation given by the people in approbation of the Poem, it being a Poetical elegancy, to express the vehemency and greatness of the applause. *u Sidonius Apollinaris* useth the self same phrase, *Hunc olim perorantem, & Rhetorica sedilia plausibili oratione frangentem, socer eloquens ultro in familiam patriciam ascivit.* Neither is that of *Virgil unlike:*

Et cantu querulæ rumpunt arbusta cicadæ.

Yea the *Grecians* used the same manner of speech x κατηρέγοντο πᾶς ἡ τόπος ἀπὸ τοῦ Κρότου, καὶ τὰ Κρουνγῆς. So that hereby I think that the Poet understandeth that *Grande sophos*, so often mentioned by *Martial*, it being a usual custom amongst the *Romans*, to signifie the approbation of their Orator or Poet, by the loud acclamation of Ὀρθῶς or ἐρθῶς. Unto which *Horace* alludeth, *de arte poet.*

— *Clamabit enim pulchre, bene, recte.*

But to return whence we have digressed, these latter solemnities were of such note, that whereas the *Romans* formerly made their computations of their greater year, called *Annus magnus*, by their *lustra*, y now they made it by these *Agones Capitolini.* Again we must distinguish these *Agones quinquennales* instituted by *Domitian*, from those *Ludi quinquennales* instituted by z *Augustus Cæsar*, in memory of the victory which he got against *Antonius*, upon the promontory *Actium*, whence they were called *Actiaci Ludi.*

u Sidon. Ap. lib. 5. Epist. ad Sapand.

x Polyb. in hist. 15.

y Hospin. de orig. fest.

z Sueto. Aug. cap. 18.

CAP. 8.

De ludis secularibus.

AUthors agree not upon the just period of time when these secular games were to be renewed: some are of opinion that they were to be celebrated every hundredth year; some every hundredth and ten, some once only in three hundred; but in this all agree, that they were named *sæculares* from *sæculum*, which signifieth at

Herodian. l. 3. in vita Sever.

a Rosin. ant. l. 5. c. 1. least an hundred years, *a saeculum in centum annos extendi existimabant*; Because the full and compleat age of man, might extend it self to the hundredth year, and seldom to any above an hundred: thence it was, that the form of words used by the publick Cryer in proclaiming these Games, was *b Venite ad Ludos quos nemo mortalium vidit, neque visurus est.* Unto which *c Ovid* alludeth, *Trist. l. 2.*

b Pol. Vig. de invent. l. 8. c. 1

c Ovid. Trist. lib. 2.

— *Carmina* —
Jusserat & Phœbo dici, quo tempore ludos
Fecit, quos aetas aspicit una semel.

But the Emperors being ambitious of honour, and desirous to be spectators of the Games in time of their own raign, they did often anticipate the time. *Claudius Cæsar* amongst the rest, proclaimed them within *d* sixty three years after *Augustus* had observed them, which occasioned the people to deride his Cryer, inviting the people to those shews and sports, which no man living either had seen, or should see again: because *e* some who were Spectators nay Actors in those solemnities exhibited by *Augustus*, lived at the same time when *Claudius* caused this to be proclaimed. These playes were also *f* called *Tarentini ludi*, not from the City *Tarentum* in great *Greece*; but from a certain place of the same name near *Rome*, adjoyning to the River *Tiber*. All the Theatres at this time were filled, and sacrifices offered throughout all the *Temples*, for the space of three dayes, and three nights, which giveth light to that of *Ausonius*.

d Alex. ab Alex. l. 1. c. 30

e Suet. Claud. cap. 21.

f Hosp. de orig. fest.

Trina Tarentino celebrata trinoctia ludo.

The first day the Emperor and the *Quindecemviri*, early in the morning ascended the *Capitol*, and there offered sacrifice according to the wonted manner: thence they departed to the Theatres, to perform solemn playes in the honour of *Apollo* and *Diana*. The second day the noble Matrons assembled together in the *Capitol*, they offered up supplications unto their Gods, they fasted and sung hymnes in the honour of the Gods. The third day seven and twenty boyes, going along three and three,

three, and as many maids in like manner, all of them nobly descended; and having both father and mother alive, sung verses: in which they commended the *Roman* State to the protection of the immortal Gods. This was termed *Pæanas concinere*, which word *Pæan*, though it signifieth primarily an hymn, or song of praise made to *Apollo*, who was called *Pæan*, *g* from παίειν, *a feriendo*, because of his victory gotten of the *Python*; yet *h* sometimes, and so in this place, it denoteth the praises in general of all the Gods. Again the phrase intimateth an elevation of the voice in singing with a kind of rising from one note to another. Thus *Turnebus* maketh πανηνίζειν, and μινυρίζειν to be opposite, *i Videtur autem Pæan contentionis vocem esse, minuritio remissionis.*

g Cœl. Rhod. antiq. l. 7. c. 5.
h Servius in Æn. l. b. 6.
i Turneb. adv. lib. 1. c. 12.

CAP. 9.

De ludis Plebeiis, Compitalitiis, Augustalibus, Palatinis, Tauriis, & votivis.

OTher Games there were performed in the honour of the Gods, which are rather named by Authors than explained; they are these that follow; *Plebeii ludi*, *k* which were celebrated in memory of the liberty procured to the *Roman* state, by the succession of Consuls in the place of Kings; or as others say, in memory of the reconciliation wrought between the Senators and the Commonalty, by reason of their great oppression at that time, when the *Commons* in a kind of mutiny departed to the *Aventine* Mount. 2. *Competalitii Ludi*, so called because they were usually solemnized in *Compitis*, (i. e.) in the cross-ways, and open streets: *l* they were first ordained by *Servius Tullius*, in the honour of those Gods whom they termed *Lares* in the memory of his nativity. The form of words used by the *Prætor*, when he signified to the people the time of these solemnities, was as followeth: *m Die noni post Calendas Januarii Quiritibus Compitalia erunt.* Concerning which words, *Gellius* noteth, *n Die noni*

k Alex ab Alex. l. 6. c. 19.
l Plin. lib. 36. cap. ult.
m Macrob. l. 1. Latur.
n A. Gel. noct. At. l. 10, c. 24.

ni Prætor dicit, non die nono, neq; Prætor ſolum, ſed pleraq; omnis vetuſtas ſic locuta eſt. 3. *Auguſtales ludi*, performed in the honour of *Auguſtus Cæſar*. 4. *Palatini ludi*, ſo named, becauſe they were performed in the *Palatine* mount. Some are of opinion that they were inſtituted in the honour of *o Julius Cæſar*, others in the honour of *p Auguſtus*. 5. *Taurii ludi*, which received their name from *Taurus*, a Bull, they were firſt ordained by *Tarquinius q Superbus*, when there hapned a great peſtilence amongſt the women with child, occaſioned by much Bull-fleſh ſold unto the people, for the removal of which plague, theſe games were inſtituted, in the honour of the infernal Gods. They are ſometimes alſo called *Boalia & Baptia*. 6. To thoſe may we add their *Votivos ludos* which were alſo performed in the honour of ſome God, upon ſome ſpecial vow made. For whenſoever the *Romans* did undertake any deſperate war, then did ſome *Roman* Magiſtrate *Vovere ludos, vel templa*, conditionally that they got the conqueſt: whiles the Magiſtrate uttered this his vow, he was ſaid *Vota nuncupare*, or *facere vota*, i. e. to make a ſolemn vow unto the Gods; the vow being thus made, he which made it did write it in paper, and with wax faſtened it to the knees of their Gods, thereby binding himſelf the more ſtrongly to the performance; and this in *Pliny* his phraſe is *ſignare vota*: *Juvenal* termeth it, *Genua incerare deorum*, Sat. 10.

o Alex. ab Alex. l. 6. c. 19

p L. 56. c. ult.

q Feſt. vid. Hoſpin. de orig.

Turneb. adv. l. 1. c. 17.

After this he was ſaid to be *Voti reus*, i. e. conditionally bound and obliged to the performance thereof, ſo that the Gods might challenge the thing vowed as due debt, if they granted his requeſt; yea after that the thing craved had been obtained, then was he ſaid, *Damnatus voti, vel voto* (i. e.) ſimply bound to the performance of the vow, ſo that by conſequence, *Damnari voti, vel voto*, is to have ones deſire accompliſhed. Thus have we gone over the chief and principal games which were meerly *ſacri*, tending to Religion: the ſecond ſort were *Ludi honorarii*, of which in the next Chapter.

CAP.

CAP. 10.
De Gladiatura.

SUch ſports and plays which were performed by private men upon their own purſe and charges, they ſeeking thereby to wind themſelves into the affections of the common people, and to make way for their own preferment and honour, were termed *a Ludi honorarii*; and howſoever any game or ſhew might be tendred unto the people in this reſpect, yet thoſe of this nature were for the moſt part *either fencing* or *ſtage-plays*; *fencing*, becauſe the ſight thereof was ſo often freely beſtowed upon the people, is therefore many times denoted by the Latine word *b Munus*; and thoſe that beſtow theſe ſights, are for the ſame reaſon termed *Munerarii*. The firſt original of this fencing and ſword-playing, to the killing of one another, hath been derived *c* from a cuſtomary practice among the heathens, at the burials of their friends, who were perſwaded that the ſhedding of mans blood would be a propitiatory for the ſoul deceaſed; hence would they buy captives and ſlaves, purpoſely to be ſacrificed at burials: afterwards that this wicked ſpectacle might be the more pleaſant and delightful, they changed their ſacrifice into a fencing with Art, where the combatants did fight for their lives. Theſe particular kind of *Fencers* were called *Buſtuarii*, from *Buſtum*, the place where dead mens bodies were burned: but ambition and cruelty made theſe bloody ſpectacles in after-ages more frequent, inſomuch that prizes at laſt were plaid not only at the Tombs, but in divers other places, as the *Cirque* and *Amphitheatre*, &c. yea they were given as legacies by will and teſtament unto the people. Theſe prizes have continued many dayes together, and the number of the combatants ſometimes exceeded number. At the firſt none would thus hazzard their lives but captives, and fugitive ſervants which were enforced thereunto,

a Iſaac Cauſabon *in* Suet. Aug. 32.

b Lipſ. Sat. l. 1. c. 7.

c Tertul. Ir. Servius in Æneid. 10.

ni Prætor dicit, non die nono, neq; Prætor solum, sed pleraq; omnis vetustas sic locuta est. 3. *Augustales ludi*, performed in the honour of *Augustus Cæsar*. 4. *Palatini ludi*, so named, because they were performed in the *Palatine* mount. Some are of opinion that they were instituted in the honour of *Julius Cæsar*, others in the honour of *Augustus*. 5. *Taurii ludi*, which received their name from *Taurus*, a Bull, they were first ordained by *Tarquinius Superbus*, when there hapned a great pestilence amongst the women with child, occasioned by much Bull-flesh sold unto the people, for the removal of which plague, these games were instituted, in the honour of the infernal Gods. They are sometimes also called *Boalia & Bupetia*. 6. To those may we add their *Votivos ludos* which were also performed in the honour of some God, upon some special vow made. For whensoever the *Romans* did undertake any desperate war, then did some *Roman* Magistrate *Vovere ludos, vel tem: la*, conditionally that they got the conquest: whiles the Magistrate uttered this his vow, he was said *Vota nuncupare*, or *facere vota*, i. e. to make a solemn vow unto the Gods; the vow being thus made, he which made it did write it in paper, and with wax fastened it to the knees of their Gods, thereby binding himself the more strongly to the performance; and this in *Pliny* his phrase is *signare vota*: *Juvenal* termeth it, *Genua incerare deorum*, *Sat.* 10.

o Alex. ab Alex. l. 6. c. 19 p L. 56. c. ult.

q Fest. vid. Hospin. de orig.

Turneb. adv. l. 1. c. 17.

After this he was said to be *Voti reus*, i. e. conditionally bound and obliged to the performance thereof, so that the Gods might challenge the thing vowed as due debt, if they granted his request; yea after that the thing craved had been obtained, then was he said, *Damnatus voti, vel voto* (i. e.) simply bound to the performance of the vow, so that by consequence, *Damnari voti, vel voto*, is to have ones desire accomplished. Thus have we gone over the chief and principal games which were meerly *sacri*, tending to Religion: the second sort were *Ludi honorarii*, of which in the next Chapter.

CAP.

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De Gladiatura.

SUch ſports and plays which were performed by private men upon their own purſe and charges, they ſeeking thereby to wind themſelves into the affections of the common people, and to make way for their own preferment and honour, were termed *a Ludi honorarii*; and howſoever any game or ſhew might be tendred unto the people in this reſpect, yet thoſe of this nature were for the moſt part *either fencing* or *ſtage-plays*; *fencing*, becauſe the ſight thereof was ſo often freely beſtowed upon the people, is therefore many times denoted by the Latine word *b Munus*; and thoſe that beſtow theſe fights, are for the ſame reaſon termed *Munerarii*. The firſt original of this fencing and ſword-playing, to the killing of one another, hath been derived *c* from a cuſtomary practice among the heathens, at the burials of their friends, who were perſwaded that the ſhedding of mans blood would be a propitiatory for the ſoul deceaſed; hence would they buy captives and ſlaves, purpoſely to be ſacrificed at burials: afterwards that this wicked ſpectacle might be the more pleaſant and delightful, they changed their ſacrifice into a fencing with Art, where the combatants did fight for their lives. Theſe particular kind of *Fencers* were called *Buſtuarii*, from *Buſtum*, the place where dead mens bodies were burned: but ambition and cruelty made theſe bloody ſpectacles in after-ages more frequent, inſomuch that prizes at laſt were plaid not only at the Tombs, but in divers other places, as the *Cirque* and *Amphitheatre*, &c. yea they were given as legacies by will and teſtament unto the people. Theſe prizes have continued many dayes together, and the number of the combatants ſometimes exceeded number. At the firſt none would thus hazzard their lives but captives, and fugitive ſervants which were enforced thereunto,

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b Lipſ. Sat. l. 1. c. 7.

c Tertul. Ir. Servius in Æneid. 10.

thereunto, being bought for that purpose; afterward those that were free-born suffered themselves to be hired
d Sen. ep. 100 for which cause they were termed *Auctorati*, hirelings; d yea noble men themselves sometimes by reason of their decayed estates, sometimes to demerit the Emperor his love, endangered their lives in this fight. Those that were hired, bound themselves by a solemn oath to fight unto death, or else they would yeild their bodies to be whipt,
e Serm. 27. yea and to be burnt, unto which e *Horace* alludeth;

Quid refert; uri, virgis ferroq; necari?
Auctoratus eas, an turpi clausus in arca?

The manner of this bloody spectacle was thus: The Master, or exhibitor thereof, did by a publick bill give notice unto the people, what day the Prize should be performed, how many couples were to combat, what their
f Sueton. in Julio. names, &c. thereby to procure the greater expectation, and concourse of people; of this speaketh f *Sueton, Mu-*
g Plin. 35. 7. *nus populo pronunciavit in filia memoriam.* g Yea they did in tables hanged in publick view, paint and represent not only the description of the place, but also the very form and gesture of the fencers:

——— *velut si*
Revera pugnent, feriant vitentq; moventes
Arma viri. Horat. lib. 2. Sat. 7.

Upon the day appointed when all met, then were the weapons brought forth, and those were of two sorts: *Lusoria*, or *Exercitoria tela*, such as were the spear and wands, or cudgels, that they might toss the one, and fence with the other, and shew their feats of activity, all being but preparations to that more solemn and dangerous ensuing. The Greeks called them ἰσοπυμβία ἀκοντία, because of the little balls tied at the sharp end of the
h Lips. Sat. l. 2 c. 19. Weapons to prevent dangers. Other were h *Decretoria tela*, so called, *Quia hæc velut decreto Prætoris, sive Editoris debantur.* These were those, with which they really
i Sen. epist. 117. encountred each other for life or death, and therefore sometimes they are called *Pugnatoria*: i *Seneca* speaketh

eth of both, *Remove iſta luſoria arma, decretoriis opus eſt.* And that the Apoſtle doth not allude to both, I dare not gainſay, 1 *Cor.* 9.26,27. where he ſaith, ἐγὼ τοιγαροῦν οὕτω τρέχω ὡς οὐκ ἀδήλως· οὕτω πυκτεύω ὡς οὐκ ἀέρα δέρων· ἀλλὰ ὑπωπιάζω μου τὸ σῶμα He did not beat the air, and flouriſh with thoſe luſorious and preparatory weapons, but he did truly fight againſt his natural corruption to the wounding and ſubduing of it; for ſo *k* ὑπώπια ſignifieth *putrified wounds.* The phraſe of *l Seneca's* alluding to the fore-flouriſhings, is not much unlike, *Aliud eſt ventilare, aliud pugnare.* This fore-skirmiſh with cudgels was properly termed *præludium*: *Megara* ſpeaking of *Hercules* his Conqueſt over the two Serpents, aſſaulting him being yet an Infant, ſaith, *m Præluſit Hydra*, i. e. the combat was but the prologue, preface, or introduction to that greater which ſhould enſue between him and the *Hydra.* Afterwards when they betook themſelves to naked Weapons, and to a real fight, then were they ſaid *Dimicare ad certum*, and *Verſis armis pugnare.* This word *n Verſis* being put for *Tranſmutatis.* In the act of fighting, they did frame and compoſe their body according to the rules of their Art, for the better warding of themſelvs, and the readier wounding of their adverſary. This frame and poſture of the body, was by a peculiar name called *Status*, or *Gradus*; whence aroſe thoſe elegant Metaphors, *Credere de gradu, demigrare de gradu*, to change ones purpoſe, and as it were to draw back from what he formerly intended. In like maner we ſay, *De mentis ſtatu dejicitur*, or *deturbatur*: he is driven to change his mind, or in general, he is amazed. In the conflict, oftentimes the ſword-players after they had received any dangerous wounds, laid down the Weapons, which though in extremity, was a token of cowardiſe, neither were they thereupon acquitted or diſcharged: but this depended upon the conſent either of the Emperor, or the people, or the Maſter of the Shew. This diſcharge was properly called *Miſſio.* Such was the cruelty of thoſe times, that many prizes were proclaimed, wherein they fore-ſignified,

k Suid. in voce ὑπώπια.

l Sen l. 3 cont.

m Sen. Herc. fur. verſ. 221.

n Lipſ Sat. l. 2 cap. 19.

ed,

ed, that such discharges should neither be craved, nor granted: whereupon *o Augustus Cæsar* made a decree, wherein *Gladiatores sine missione edi prohibuit.* Those combatants that overcame, received by way of reward, sometimes money, sometimes a garland, or coronet of Palm-tree, wound about with certain wollen ribbands called *Lemniſci*; the coronet it self was therefore called *p Palma lemniſcata* and hence figuratively hath *Palma* been translated to signifie the victory it self; and such a man as hath often got the prize, we say proverbially, that he is *Plurimarum palmarum homo.* The reason why the Palm-tree, rather than any other tree, should be given in token of victory, is rendred by *q* divers approved Authors to be this: because the Palm-tree, though you put never so ponderous and heavy weight upon it, yet it will not yield, but rather endeavour the more upward. Sometime the reward given by the people was one of those Wands or Cudgels used in the fore-skirmish. That Wand was properly called *Rudis*, and it was given in token of liberty, signifying thereby, that he should thenceforward lead his life free from shedding of blood: alluding to which custom, this word *r Rudis* hath been used to signifie any other kinde of freedom or discharge; Whereupon *Horace* said of himself, that he was *Rude donatus, i. e.* discharged from his pains in Poetry. Lastly, sometimes he that conquered received *Pileum*, a Cap. And here it will not be amiss, to note the difference between *Palma*, *Missio*, *Rudis*, and *Pileus*. *Palma* was onely a token of victory, not of liberty, or dicharge. *Missio* was not a full discharge, but a kinde of vacation, or respite granted upon request, untill the morrow, or some other time: again it was granted to those that were conquered, not to the conquerors. *Rudis* was a token of a full discharge from bloody combats, whereby a mans life might be endangered: but yet with this distinction, that if it were bestowed upon free Citizens, hired to be actors in these masteries, then were they thereby restored to their free-

o Suet. Aug. 49

p Fran. Syl. in orat. pro Sect. Rosc.

q Arist. prob. 7. Plut. symp. 8. q 4. Alex. Gel. l. 3. c. 6.

r Eras. adag. Rudem accip.

dom

dom also, which formerly they forfeited by undertaking such base conditions: to other which were formerly servants, or captives, it was only a token of liberty and discharge Notwithstanding, sometimes upon favor such servants or captives obtained together with their discharge from such fights, a priviledge also of enfranchisement, whereby they were thenceforward incorporated among free Citizens; the token hereof was *Pileus*, for then they received a Cap; which latter observation helpeth for the understanding of *Tertullian*, where he saith, *s Qui insigniori cuiq; homicidæ leonem poscit, idem gladiatori atroci petat rudem, & pileum præmium conferat.* In which speech the unjust and unreasonable practise of those heathens is displayed, whiles they judge a manslayer to be exposed to Lions and wilde beasts, and yet notwithstanding will reward the bloodiness of swordplayers. These fencers fought with divers manner of Weapons, and accordingly had several names, the chief of which we reade are these: 1. *Retiarii*, so called from *retejaculum*, signifying a float-net used in fishing, because this sort of Fencers did fight with a cast-net in one hand, to catch and clasp about their adversaries head; and a three forked engine in the other, which they used in stead of a sword: of this *Juvenal* speaketh, *Sat.* 8.

s Tertul. de spect. c. 21.

— *Movet ecce tridentem.*

They did always fight in their coats: whence the Epitheton floweth, *retiarii tunicati*. The reason why they bore up and down Spunges, which *Tertullian* calleth *spongia retiariorum*, may be for the drying up of the blood, and wiping or stopping of the wounds: which use of sponges, *t Pliny* noteth. Now because these *Retiarii* were so lightly armed, they were compelled every time they strook with their net, to retire back until they recovered their net again; and hence the second sort of fencers which fought with them, were termed *u Secutores*, *ab insequendo*, from following and pursuing these *Retiarii*. The weapons wherewith these *Secutores*

t Plin. l. 3. c. 11.

u Lips. Sat. l. 2. cap. 7.

tores did fight, were a target, to keep off the net of the adversary; a sword and a helmet. 3. *Thraces*, so called from the *Thracian* Weapons which they used; their target was round and little, called *Parma*: it was at first in use among the* *Thracians*, and afterward so proper to this sort of sword-players, that x *Parmularius* signifieth such a one as favoured this company or faction of Fencers. Their sword was a crooked falchion, termed by them *Sica*. The *Roman* souldiers did use to wear two of these, a long one on the left side, and a shorter on the right side, answerable to our sword and dagger, but the form of the *Sica* was always crooked, according to that, *Sica* θρασιὸν ξίφος ἐπικαμπτὸν. Privy murtherers practising the killing of men, may seem to have used the lesser, as a pocket dagger; such are those *Sicarii*, of which there is such often mention in *Tully*. 4. *Myrmillones*, they are sometimes called *Galli*, because they were appointed after the manner of the *Gauls*. Their Weapons were a sword, a target, an helmet with a crest in form of a fish. 5. *Hoplomachi*, the name imports them to be armed in their fight, it is derived from the Greek ὅπλον vel ὅπλα *arma*, & μάχομαι: untill *Augustus* his time they were named *Samnites*; their armour was an helmet with a tuft on the crest, a sword, a shield, and a boot on the left leg. 6. *Provocatores*, sometimes called *Probatores*, these usually fought with the *Hoplomachi*; their armour was a sword, a target, an helmet, and boots on both legs. For as the footmen among the Soulders, so likewise some of the sword-players used boots, for the safe-guard of their legs; these boots were made of * iron, and so common amongst the *Grecians* in war, that boots alone are oftentimes put to express the *Grecians* whole armature, as appeareth by that useful Epitheton in *Homer*, ἐνκνήμιδες Ἀχαιοὶ i. e. *Bene ocreati Græci*; these boots they wore sometimes on both legs, sometimes on one, according as the manner of fight required. 7. *Essedarii*, such as fought one against another out of waggons, so called from *Essedum*,

* Turneb. adv. lib. 5. c. 10.
x Suet. in Domit. c. 10
y Alex. ab Alex. 6. c. 21.

* Veget. Vide Lips. de milit. l. 3. ca. 7.

dum, a waggon or chariot. 8. *Andabatæ, quasi* ἀναβαταὶ *ascensores*, because they did fight on horse-back, or out of chariots. This sort of fencers did fight winking, whence ariseth that adage, *Andabatarum more pugnare*; the phrase is fitly used, when two ignorant persons are hot in contention about that which neither understandeth. 9. *Dimacharii*, called also *Orbelæ*, they fought each against the other, with two swords apiece, as the first name importeth. 10. *Laquearii*, such as fought with swords and halters, the use of the halters was the same as the *Retiarii* made of their nets, to cast about their adversaries neck or arm, that they might the easier wound them with their sword. Of all these sorts of fencers *l Lipsius* treateth largely, to whom I refer the Reader. Onely here let me take notice, that it was the power of the people, to discharge any of these Combatants in time of the fight, which discharge they signified *premendo pollicem*, by holding down their thumb, or else to adjudge him to continue the fight, though in never so great danger, and this latter they signified *convertendo pollicem*, by turning up the thumb;

l Lips. Sat.

---- *Et verso pollice vulgi*
Quemlibet occidunt populariter. ---- *Juven. Sat.* 3.

Moreover, that there might be always in readiness a sufficient number of sword-players, hence were there Schools erected, into which Captives, fugitive servants, and notorious offenders, were sometimes condemned, sometimes sold. The Masters of these Schools were called *Lanistæ*, the Scholars or under-fencers, trained up there for more publick or dangerous fights, were called *Familiæ*. The word *Familia* is often taken in this sense, to signifie the whole company of under-fencers, belonging to one School, and the Master of defence, is for this reason, more than once by *m Sueton* called *Pater familias*. Moreover, when one challenged another to these combats, they signified their challenge by beckning with their little finger. *Horace* alludeth unto this:

m Suet. Calig. 26. It. in Domit. 10.

Crispinus minimo me provocat, accipe si vis,
Accipe jam tabulas. Lib. 1. Serm. 4.

This must be understood of a beckning, and that with the little finger; for otherwise in time of the fight, if either of the combatants did hold up his finger, *n* he signified thereby that he did yield, and give place unto his adversary; some think that *Persius* had respect unto this custom, in that phrase,

n Alex. ab Alex. l. 4. c 26

——*Digitum exere, peccas. Sat.* 5.

CAP. 11.
De Ludis Scenicis.

THe second sort of Plays bestowed on the people for their favour, were *Ludi Scenici*, Stage-plays. The reason of this name *scena* may be seen before. * The first institution of them was occasioned by reason of a great sickness, which by no medicinary help could be removed; The *Romans* superstitiously conceiting, that some new games or sports being found out, the wrath of the Gods would thereby be unarmed. y Whereupon, about the four hundredth year after the building of *Rome*, they sent for certain stage-players out of *Hetruria*, which they called *Histriones*, from the *Hetrurian* word *Hister*, which signifieth such a player. *Quia Hister Thusco verbo ludus appellatur, id nomen Histrionibus est additum. Polyder de inven. l.* 3. *c.* 13. Concerning the divers kinds of stage-plays, I read of four called by the Grecians, *Mimica*, *Satyra*, *Tragœdia*, *Comœdia*; by the Romans, *Planipedes*, *Atellana*, *Prætextata*, *Tabernaria*; in English, *Fable*, *Mimical*, *Satyrical*, *Tragical*, *Comical*. These *Mimical* players did much resemble the Clown in many of our English stage-plays, who sometimes would go a tip-toe in derision of the mincing dames; sometimes would speak full mouthed to mock the country clowns; sometimes upon the tip of their tongue to scoff the Citizen. And thus, by the imitation of all ridiculous gestures or speeches, in all kinds

* Lazius de Repub Rom. l. 10. c 11.

y Alex. Gen. dier. l. 6. c 19

kinds of vocations, they provoked laughter; whence both the plays and players were named *Mimi*, from μίμος an imitator, or one that doth ape-like counterfeit others; as likewise they were called *Planipides*, because the Actors did enter upon the ſtage *planis pedibus*, i.e. z *Excalceati*, barefooted. The ſecond ſort of plays were called *Satyræ*, a from the laſcivious and wanton country Gods called *Satyri*, becauſe the Actors in the *Satyrical* plays did uſe many obſcene poems, and unchaſte geſtures, to delight their ſpectators. Afterward theſe kind of Actors, as we may conjecture, did aſſume ſuch liberty unto themſelves, that they did freely and without controulment, ſharply tax and cenſure the vices even of Kings as well as of the Commons, inſomuch that now we call every witty Poem, wherein the wit and manners of men are ſharply taxed, *A Satyre*, or *Satyrical* Poem. b *Satyra mordax fuit & ſalſum genus carminis.* Theſe plays were alſo called *Atellanæ*, from the City *Atella* in *Campania*, where they were often acted. The third ſort of ſtage-plays were called *Tragœdiæ*, from τράγος a Goat, and ᾠδή, an Ode or Song, becauſe the Actors thereof had a Goat given them as a reward. And likewiſe they were called *Trætextatæ* from *prætexta*, a certain Roman robe, which theſe Actors did uſe to wear in their plays. The fourth ſort were *Comœdiæ*, from κῶμαι which ſignifieth villages, and ᾠδή, becauſe thoſe kind of Actors did go up and down the country, acting thoſe *Comedies* in the villages as they paſſed along. They were likewiſe called *Tabernariæ*, *à tabulis*, i.e. from the boards or pentices wherewith they were ſheltered from the weather whiles they were acting. Theſe two laſt ſort of plays, namely, *Tragedies* and *Comedies*, being ſtill in uſe among us, it will be worth our labour to conſider the communities, wherein they agree; otherwiſe the properties or notes of diſtinction by which they differ. I find three ſorts of parts, wherein they agree, namely *partes primariæ*, *acceſſoriæ*, *circumſtantes*; parts principal, acceſſary, and circumſtances,

z Alex. ib.

a Anteſign in ſuis obſer. de metris comicis Teren. præfixis.

b Vid. Eraſ. adag. Κωμῳδοῦς σατυρικοί.

cumſtances, which are not ſo truly parts, as accidental ornaments added to beautifie the plays. The principal parts are four in reſpect of the matters treated of; for as far as the declaration or expoſition of the matter in hand reacheth, without intimation of the event to enſue, ſo far reacheth the firſt part called πρότασις, which word ſignifieth no more than a propoſition or declaration. But when the play inclineth to its heat and trouble, then enſueth the ſecond part called ἐπίτασις, which ſignifieth the intention or exaggeration of matter. The third part is called κατάστασις, *i. e.* the ſtate and full vigour of the play. The laſt part which is an unexpected change into a ſudden tranquillity and quietneſs, is called κατας, ὀφὴ; which by a *metaphor* hath been tranſlated to ſignifie the end or period of any other thing, or rather the inclination unto the end, as *vitæ humanæ catastrophe*, the end of a mans life. In reſpect of the players forſaking the ſtage, the parts were five, namely the five Acts. For the Actors did five times in every *Comedy* and *Tragedy* forſake the ſtage, and make as it were ſo many interruptions. The occaſion whereof is ſuppoſed to have been this, that the ſpectactors might not be wearied out with a continued diſcourſe or action, but that they might ſometimes be delighted with variety intermixed. For thoſe breaches and chaſms between each Act, were made up and ſupplied, either by the *Chorus*, or *Muſick*. Where we muſt note, that every *Tragedy* and *Comedy* muſt have five *Actus* and no more, according to that of *Horace*:

Neve minor quinto, neu ſit productior actu
Fabula,-----

Again we muſt remember, that it is not neceſſary that the ἔκθεσις ſhould always be contained in the firſt Act, though many times it happeneth ſo; for in *Plautus his Bragging Souldier*, the *Protaſis* is found in the ſecond Act; and ſo likewiſe are the other three parts, *i. e. Epitaſis Catataſis*, and *Cataſtrophe*, their bounds unbounded.

Theſe

These Acts are divided into several Scenes, which sometimes fall out more, sometimes fewer in every act. The definition of a Scene being *c Mutatio personarum*: whence we call a subtile *Gnatho*, which can humour himself to all persons and times, *Omnium scenarum homo*, a man fit for all parts. Now amongst the *Romans* it was thought unfit, that above three persons should come on the stage in one Scene.

c Vid Eras. Adag.

----*Nec quarta loqui persona laborat.* Hor.

The *partes accessoriæ* in a Comedy are four: *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subject of the Comedy. The second is the Prologue; which is either ὑποθετικὸς, such as doth open the state of the Fable, at which time there needeth no argument; or else συστατικὸς, such as commendeth the Fable, or the Poet unto the people; or lastly ἀνασκευαστικὸς, such as shall refute the objections and cavils of adversaries. The third is *Chorus*, which speaketh between each Act; and this *Chorus* may consist either of one, or many speakers, and that either male or female; *d* but with this caution, that if a male be to be commended, then must the *Chorus* consist of males: if a female to be commended, then must it consist of females. And always whatsoever the *Chorus* speaketh, it must be pertinent to the Act past, or covertly intimating somewhat ensuing.

d Suet. Aug. c. 40.

----*Non quid medios, intercinat actus,*
Quid non proposito conducat & hæreat apte. Hor.

It may seem sometimes that in the midst of the Play some other sport was interposed, as hunting, or fencing, or such like, to delight the spectators with the greater variety: whence *Hor.*

Si discordet eques, media inter carmina poscunt
Aut ursum, aut pugiles.----

These interposed varieties were denoted by the name of *Diludia*; *Displicet iste locus, clamo, & Diludia poscat.* Hor. The fourth and last accessory part was *Mimus*, the Clown or Fool of the Play. Of all these parts a Tragedy hath

only

only a *Chorus*. The *partes circumstantes*, or accidental ornaments, were four, common to both, *Titulus*, *Cantus*, *Saltatio*, *Apparatus*, i. e. the Title of the Play, Musick, Dancing, and the beautifying of the Scene. By the Scene in this place, I understand the partition between the Players vestry, and the stage or scaffold. This partition at the acting of a Tragedy was underpropped with stately columns and pillars, and beautified with paintings resembling princely buildings, and the Images as well of Gods as Kings. At the acting of a Comedy, countrey cottages and private buildings were painted in the outface of the partition. In the *Satyrical* Plays the painting was overrun with shadows of mountains and woods: The *e* first of these partitions they called *Scenam Tragicam*, the second *Comicam*, the third *Satyricam*. The differences between a *Tragedy* and a *Comedy*, which may be collected out of *f Antesignanus*, are these: first in respect of the matter, because a *Tragedy* treateth of exilements, murthers, matters of grief, &c. a *Comedy* of love-toyes, merry fictions, and pretty matters, the one being δεινῶν πρίσχη; the other σύχνη περιοχή. In a Tragedy the greatest part of the Actors are Kings and noble persons; in a Comedy private persons of meaner state and condition. The subject of a Comedy is often feigned, but of a Tragedy it is commonly true, and once really performed. The beginning of a Tragedy is calm and quiet, the end fearful and turbulent; but in a *Comedy* commonly the beginning is turbulent, and the end calm. Another difference which *Antesignanus* hath omitted, is behoveful for us to know, namely, that the Tragedians did wear upon the stage a certain shoe, coming half way up the leg in manner of buskins, which kind of shoe was called by them *Cothurnus*, and from that custom it hath been occasioned, that *Cothurnus* is translated to signifie a *Tragical* and lofty style, as *Sophocleo digna Cothurno*, matters beseeming *Sophocles* his style; and sometimes a Tragedy it self. The Comedians did use an high shoe coming up above

e Alex. Gen. dier. l. 5. c. 6.

f Antesig. in suis observ. metris comicis Terent. præfixis.

Nigrum medium impediit crus Pellibus. Horat. Ser. l. 1 Sat. 6.

above the ankle, much like a kind of shoes which plowmen use to wear to keep themselves out of the dirt. This kind of shoe is called *Soccus*, by which word sometimes is signified a Comedy, as

Hunc jocci cepere pedem grandesq; Cothurni. Hor.

g All these sorts of stage-plays, both *Mimical*, *Satirycal*, *Tragical* and *Comical*, if they were acted according to the Grecian rite and custom, then were they called *Palliata* from *Palium*, a certain mantle which the Grecians did use to wear; if according to the Roman manner, then were they called from the Roman gown *Togatæ*.

g Aul. Gel. lib.

CAP. 12.

De Trojano ludo, sive Troja.

IT was a custom among the Romans, sometimes in the year to have a general muster of the younger sort, who meeting in the Cirque, exercised there running, racing, riding at tilt, and other such like feats of activity, whereby they might be trained up for their better service in the war. They chose a Captain, one or other of noble birth: he was called *a Princeps juventutis*. They divided themselves into distinct companies, sometimes marching forward, one against another, sometimes retiring backward, sometimes skirmishing, sometimes imbattelling themselves in one form, sometimes in another, as if it were a true field pitcht. A large and full description hereof we have in *Virg. Æn.* 5. This game was called *Trojanus ludus*, or simply *d Troja*, without the addition of any other word, because *Ascanius Æneas* his son, first brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place.

a Hosp. de orig. fest.

d Suet. in Jul. c. 39.

Hunc morem, cursus, atq; hæc certamina primus
Ascanius, longam muris cum cingeret Albam,
Retulit, & priscos docuit celebrare Latinos.

Among others sports used at this time, e there was also a kind of Morisk-dance, wherein the younger men dan-

e Alex. ab. Alex. l. 6. c. 19.

eed in harneſs, after a war-like manner, being thereby trained to exerciſe all parts of their body, by ſundry geſtures, as well to avoid all venues and defend themſelves, as to annoy and offend the enemy. This kinde of dance is generally called *Pyrrhica ſaltatio*, becauſe it was invented by *f Pyrrhus*. Yea, *g* ſome ſay, that *Suetonius* taketh *Trojanus ludus*, and this *Pyrrhica ſaltatio*, for one and the ſame thing. Nay *Alexander* confoundeth both theſe, with thoſe other games termed *Juveniles ludi*. But doubtleſs herein he was miſtaken, for thoſe *Juvenilia* were inſtituted by *h Nero* at the ſhaving of his beard, and had not their name, becauſe young men were the chief actors, but becauſe old men would now by the practice of youthful ſports, turn young again. The actions at this time were ſo far from ſavouring of military diſcipline, that on the contrary, they were for the moſt part effeminate and wanton.

f Plu. l. 7. c. 6

g Serv. in l. 5. Æn. t. Alex. ab Alex. loco ſupra citato.

h Sue. in Neron. c. 11. *i* Coel. Rhod. l. 19. c. 22. *k* Roſin Rom. ant. 5. c. 22.

CAP. 10.

De teſſeris, taliis, & latruneulis.

BEfore we treat of the game called *Ludus teſſerarius*, it will not be amiſs, 1. to clear the word *teſſera* from all ambiguity. The word hath four remarkable ſignifications, all alluding to matters of antiquity. Firſt it ſignified a watch-word among the ſouldiers in the camp, whereby they diſcerned their enemies, or ſpies, from their own fellows. *o Alex. ab Alexandro* giveth many examples hereof: *Auguſtus Cæſar* in his camp gave for his watch-word *Venus genetrix*; *Pompeius magnus* gave for his, *Hercules invictus*, &c. and this was called *Teſſera militaris*. Secondly, there was *Teſſera frumentaria*, a certain ticket or token given by the Magiſtrate unto the poor, at the tendring whereof, *p* at the beginning of every moneth, certain doles and meaſures of corn were given; it is evident that at firſt there were ſuch monthly diſtributions of corn, even by that endeavour of

o Alex. ab Alex. l. 4. c. 2.

p Suet. Aug. c. 40.

Auguſtus,

Auguſtus, who for the avoiding of trouble, would have reduced all to three ſet diſtributions in the year, but prevailed not; ſometimes inſtead of corn, or haply over and above the corn, there were at certain times, doles of money given to the poor, which dole whoſoever received, tendred his token or bill of exchange, termed *Teſſera nummaria*; theſe two laſt acceptations, though they may be diſtinguiſhed, yet becauſe they both tended to the relief of the poor, I have joyned them together. 3. There was *Teſſera hoſpitalis*, a certain token of wood, or ſuch like matter, which uſually was cut in two by thoſe who had engaged themſelves mutually to entertain each other, whenſoever entertainment ſhould be craved; yea this wooden ticket or tally being mutually accepted, it was lawfull for their poſterity bringing this token, to challenge hoſpitality. Thus he in *Plautus* having formerly uſed *Antidomus* as his hoſt, after *Antidomus* his death, he cometh unto *Antidomus* his adopted ſon, not doubting of entertainment, for ſaith he, *Deum hoſpitalem, ac teſſeram mecum fero.* Hence from this cuſtom, or tendring a token when hoſpitality ſhould be craved, that adage hath been derived, *Teſſeram hoſpitii confregit*, i.e. he hath broken the league of hoſpitality. Laſtly, *Teſſera* ſignifieth a *Dye*: where we muſt note that the word *Alea*, which commonly is tranſlated a Dye, is a general word, applied equally both to the *Teſſeræ* and the *Tali*, to denote the uncertainty of both games. *Teſſera* properly ſignifieth a Dye; *Talus*, an huckle-bone, ſuch wherewith children play *Cockall.* In determining the ſeveral chances in theſe plays, Authors are not only diverſe, but in many things contrary each to other, neither can any certainty be gathered from their writings; whether my conjectures, drawn from comparing their ſeveral and contrary writings, may give light for the right underſtanding of decayed knowledge herein, I ſhall willingly ſubmit my ſelf to the cenſure of the judicious. The ſeveral chances which I read of are theſe,

some arising from the number of the points of the Dye, as *Senio*, *Monas*. More usually among the Grecians, *q* these two were termed Κῶος, & χίος ὁ μὰ ὑπὸ χίος ἐδύνατο ἔν, ἐπὸ Κῶος ἕξ, i. e, *Chius*, answered our *Ace*: *Cous* our *Sice*. And this is confirmed by a proverb in use amongst the *Grecians*: Κῶος πρὸς χίον, which the learned interpret to be, a comparison of unequals, a Pygmie with a Giant: others named from the number I read not of. Perhaps they played not with a single Dye, but with three, as we use in *Passage*, whence their chances might have their name, not from the number of points in each several Dye, but from them all being cast. But that the *Tesseræ* had points in them, appeareth by the testimony of *a Turnebus*: And hence *Numeri* is sometimes used for *Tesseræ*;

Seu ludet numerosq; manu jactabit eburnos.
Ovid. 2. de Art. amand.

That they used more *Tali* in their plays, than they did *Tesseræ*, *b Turnebus* observeth from that verse,

Non sum talorum numero par tesseræ. Mart. 14. epig. 15.

c Cœlius Rhodiginus speaketh more distinctly, saying that in their play they used three *Tesseræ*, but for *Tali*. These *Tali* were sometimes called *Vulturii*, as appeareth by the same *d Rhodiginus*, and likewise *Reguli*. The reason of both is rendred by *Turnebus*, he being of opinion that these *Tali* had not points in them as the *Tesseræ*, saith, *pro numeris effigies animalium habebant, ut vulturum, aut regulorum*. That they were termed *Vulturii*, is probable by that of *Plautus*:

Tace parumper, jacit vulturios quatuor.
Plaut. curcul. Act. 2. Sc. 3.

But that the Cock-all-bones should be called *Reguli*, I somewhat doubt, for no question but *Regulus* and *Basilicus* in this place signified one and the same thing, the one being the *Latine*, the other the *Greek* word; now *Basilicus*, as shall presently appear, signified the whole chance. So confused are the opinions of authors herein,

q Suid. in voce Κῶος.

a Turn. adv. l. 5. c. 6.

b Turn adv. l. 6. c. 10.

c Cœl. Rhod. l. 20. c. 17.

d Cœl. Rhod. lib. 6. c. 18.

e Turn. adv. l. 5. c. 6.

in, that to assign the reason for every chances name, or to reduce every chance determinately, either to the *Tesseræ* or the *Tali*, I think it impossible. Only some may be thus reduced, and in general we may conceive probably which chances were fortunate, which unfortunate. The unfortunate chance in the *Tali*, was commonly called *Canis*, or *Caniculi*, or *Chius*. The most fortunate chance, *Venus* or *Basilicus*. f *Lipsius* taketh them both for one, and that not without ground, if we compare *Horace* and *Plautus*; both of them treating of that old custom of throwing these Cock-all-bones at their feasts, for the choice of their *Modiperator*, or master of the feast, which should prescribe laws for drinking to the whole company. f Lips. antiq. lect. 3. c. 12.

Venus arbitrium ------
Dicet bibendi. Saith *Horace.*
Jacto Basilicum, tropino magnum poculum.
Saith *Plau. curcul.* And why may not this cast be justly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the Grecians not only called συμποσιαρχος, but also βασιλευς *King, Prince*, or chief commander at the table? This cast was then thought to be thrown, when all four Cock-all-bones appeared not one like the other, but all with different faces. g *Venus consurgebat ex talis quatuor jactatis, ubi diversam omnes ostendissent faciem:* with whom accordeth h *Turnebus*; *Venus erat, cum nullus eodem valuisset talus. Hercules* was also a lucky throw, but whether the same as *Venus*, I have not yet learned. g Coel. Rhod. l. 20. c. 29. h Turn. adv. l. 5. c. 6.

The games with the *Tesseræ* I make no question were divers: the ignorance of which, they being long since out of use, hath caused much obscurity in this matter: one game there may seem to have been in use, where the just number of eight seemeth to have been the chief Cast, it was called i *Stesichorus jactus*, or *Stesichorius numerus*. The reason is rendred by *Rhodiginus*, because *Stesichorius* his tomb, erected at great charges for greater- i Coel. Rhod. l. 20. c. 29.

ter magnificence, *Ex octonis constabat omnibus*, i.e. consisted of many eights; to wit, *eight angles*, or corners: *eight columns*: *eight steps*, or grieces. In their common game, the most fortunate throw is thought to have been *Sices*; we call it in *Passage*, a *Royal Pass*, whence it was commonly called *Senio*;

—— Quid dexter senio ferret
Scire erat in votis, damnosa canicula quantum
Redderet, auguste collo non fallier orca. Pers. Sat. 3.

Which one place of *Persius* giveth light to this in three things. First, that the winning cast was termed *Senio*: and if you make *Basilicus* a term common both to Dice and Cock-all-bones, as *Venus* is, we may fitly render it a *Royal Pass*. Secondly, the losing cast, *Canis* or *Canicula* in English a *Dog-chance*. Thirdly, the manner of their play, both in their Dice and Cock-all-bones, was by casting them not immediately out of their hand, but out of a dish or narrow mouth'd vessel, that there might be fair play, without striking or cogging the Dye: this vessel *Persius* calleth *Orca*, and describeth to have a narrow mouth, and a straight neck. *Horace* applieth it to the *Tali*, *Satyr. l. 7.*

Mitteret in Pyrgum talos ——

Calling it *Pyrgus*, using the Greek word πύργος a Tower or Steeple, so called from πῦρ fire, because the form thereof being *acuminata*, resembleth the rising of fire: the word intimateth *Horace* his *Pyrgus* to have been of the like form with *Persius* his *Orca*. But to return to the game, the chief cast as I said was thought to be when three *Sices* appeared: which opinion is strengthened by that common proverb, *Aut tres sex, aut tres tesseræ*, i. e. either three *Sices*, or three *Aces*. And the first of these being the best, the other the worst chance in the Dice, the proverb implieth thus much, I will put all to the hazard, I will win or lose all. This cast was also called *Midas*: for as *Rhodiginus* speaketh, *In tessarario ludo Midas*

jactus:

jactus erat fortunatissimus; with whom accordeth *k Dempster*, proving it out of *Suidas*:

k Dempst. ant. Rom. l. 5. c. 1.

Μίδας ὁ ἐν κύβοις εὐβουλότατος.

Midas in tesseris consultor optimus.

This name signifieth the best chance, yet was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chance of the *Tali*. Likewise from that of *Mart. l.* 13. 1.

Senio nec nostrum cum cane quassat ebur.

It is noted by *l Erasmus*, that as often as an *Ace* hapned to be thrown together with a *Sice*, so that *Senio* and *Canicula* appeared together at one throw, it was a losing cast. *Suetonius* is clear in the proof hereof, if for *Aut* we substitute *Et*, which unless we do, it will be a matter of great difficulty, to make congruity of sense. His words are, *Talis enim jactatis, ut quisque Canem aut Senionem miserat in singulos talos, singulos denarios in medium conferebat, quos tollebat universos qui Venerem jacerat.* Turn *Aut* into *Et*, the sense is obvious. Look who threw an *Ace* and *Sice* together, for every Dye he staked and laid to stake a Denere: which he took up and swooped al clean, whose luck it was to throw *Venus*. *Euripid.* 5, as I take it, was not a chance, but a kinde of game, much resembling that which is in use with us, called *one and thirty*: The number of that game was *fourty*, and the game called *Euripides*, because *Euripides* was one of the fourty chief Governous in *Athens*, when the thirty Tyrants were deposed. The reason of my conjecture is taken from *n Rhodiginus*, whose words are these, *Euripides numerum constituebat quadragenarium, quoniam videtur unus fuisse Euripides præfectorum quadraginta, post triginta Tyrannos Athenis exactos*: from all we may note, that the *Jactus pronus*, or *Jactus plenus*, that is, the lucky cast, we may English it *Take all*, was commonly called *Senio*, *Venus*, *Cous*; the *Jactus supinus*, or *Jactus inanis*, was likewise commonly known by no other name than *Canis*, *Canicula*, or *Chius*, we may English it *Blank*.

l Erasm. adag. Chius ad Canem.

n Coel. Rhod. l. 2. c. 17.

o Some

e Barthol. Merula in Ovid de art. amand. l. 2.

o Some have delivered their mind touching these plays thus: that the *Tali* or Cock-all bones had but four faces or sides, and therefore yielded four chances, and no more; the first is called *Canis*, or *Canicula*, answering to our *Ace*, and it was the worst of all; the opposite unto it they term *Venus*, or *Cous*, and is accounted the best: *Merula* against sense understandeth the number of seven by it; it may stand for our *Sice*. The third bore the name of *Chius*, proportioned to *Trey* with us; and the last *Senio*, which is as much as *Quatre*. For in these *Tali* there is no chance of *Deaur*, or *Cinque*. This opinion at first I confess seemed plausible to me, but how fully it discovereth the game, and how agreeable it is to antiquity, let others judge. The chances of the Dice, or Cock-all-bones, as they were termed *Jactus & Missus*, casts: so also were they called *p Manus*, figuratively, as every stroke in the fencing-school was termed *Manus*. The first acception of *Manus* is proved out of *q Suetonius*, where *Augustus Cæsar* speaketh thus, *Si quis manus remisi cuiq; exegissem, aut retinuissem quod cuique donavi, vicissem, &c.* If I had exacted those chances which I remitted every one, and kept that which I bestowed, I had gotten, *&c.* The second acception of *Manus* is confirmed by *r Quintilian*, who calleth the second, third, and fourth-strokes in fencing, *secundas, tertias, & quartas manus*. Our English phrase is not much unlike; he hath had a good or bad, lucky or unlucky *hand*. Another game there was of like nature played with Table-men: the word *Latrunculus* translated a table-man, did properly signifie an hired souldier, such a one as served for pay: whence *Latro*, whose diminutive *Latrunculus* is, hath his denomination ἀπὸ τῆς λατρείας *à serviendo*. In this sense the word is used by *s Plautus*;

p Lips. Sat. l. 2. cap. 10.

q Sect. Aug. 72.

r Quint. l. 5. cap. 14.

s Plaut. Milit. Act. 1. Sc. 1.

Nam Rex Seleucus me opere oravit Maximo,
Ut sibi latrones cogerem, & conscriberem.

Secondly, because souldiers are so prone and apt to commit robberies: hence *Latro*, and *Latrunculus*, hath been

used

uſed alſo to ſignifie a thief or robber. And thirdly, in a borrowed ſenſe, theſe words are applyed to ſignifie table-men or cheſs-men; becauſe this form hath the expreſs form and repreſentation of a war, or battel, fought between two Armies; Inſomuch that *t Pyrrhus* King of *Epyre*, being skilful in plotting ſtratagems, firſt taught his ſouldiers that art of projecting, by plays and repreſentations thereof in the table-men. *u* Some are of opinion, that it was firſt invented in the ſiege of *Troy*, by *Palamedes*, who that he might keep his ſoldiers in better order, allowed them this kinde of recreation, whence theſe Cheſs-men are ſometimes called *Palamediaci calculi*: they were made ſometimes of wax, ſometimes of glaſs, ſometimes of other matter. The game ſeemeth to be the very ſame with that which we call *Cheſs*. Other games there were of leſſer note for recreation, of which ſort were principally theſe that follow; *Petaurum*, *Diſcus*, *Pila*, *Trochus*, *Nuces*, πέταυρον, from whence this Latine word *Petaurum* cometh, ſignifying properly a perch or pole, on which poultry rouſt: and hence the rope or ſtaff on which light perſons were wont to dance, and try maſteries, was termed *Petaurum*. It ſignified alſo a certain hoop, or wheel, through which active perſons would run ſwiftly their body ſo warily carried, that in their running they would not touch the hoop or wheel: to this purpoſe *Alex. Neop.* ſpeaketh, *Fuit a quoq; Petauri ludis admirationis præcipuæ, cum per circulos quiſpiam veloci curſu tranſvolat, corpore ita librato, ut circulum non offendat.* Such tumblers as were practiſed in this kind of activity, were thence cal'd *Petauriſtæ*. *Diſcus* was a round ſtone in manner of a bowl, ſometimes made of iron, or braſs, whoſoever could caſt it fartheſt got the victory; the players thereat were called διαχοβόλοι from δίσκος & βάλλω to dart, or caſt out any thing. *Pila* ſignifieth a ball, and of it there were divers ſorts. 1. *Harpaſtum*; which we may Engliſh a *Foot-ball*. *b* This ball being put down in the middle, two young men ſtrove who ſhould

t Dionyſ. Halicarn. lib. 20. Antiq. ſc. 7. ad finem, Idem hoc ait Plutarchus in Pyrrho.

u Suid. in voce πάλαμ.

a Alex. ab Alex. l. 4. c. 21

b Alex. ab Alex. ibid.

drive it thorow the other goal. 2. *Pila*, which ſignified a diſtinct kinde of ball, ſo called from the hair with which it was ſtuffed. 3. *Follis*, a light kinde of ball, ſo called becauſe it was ſtuffed with a bladder; with this old men and young children played. 4. *Paganica*, this had his name *à pagis*, from villages and countrey towns, where it was chiefly in uſe, it was ſtuffed with feathers; of all theſe *Mart.* 14. 45.

Hæc quæ difficilis turget paganica pluma
Felle minus laxa eſt, & minus arcta pila.

5. *Trigonalis*, and this I think both the *Pila* and the *Follis* were called, in oppoſition to *Paganica*; the reaſon of the name is taken from the form of the Tennis-courts, which becauſe they were three-ſquare, in manner of a triangle, *c* hence was the ball with which they played in ſuch courts termed *Trigonalis*. The players themſelves were termed *Factores*; thoſe that did caſt the ball into the court, were called ſimply *Datores*; and *d* hence *datatim ludere*, is to play at ball, or elſe we may imagine the reaſon of this to be, becauſe ſuch as in their play by negligence did let down the ball, did *ſuam dare*, hold out their leg, to have the ball flung at it. *Trochus*, it ſignifieth a top: as it was commonly called *Trochus* from τρέχω to run, becauſe of the ſwiftneſs thereof: and likewiſe *Turbo* in Latine for the ſame reaſon; ſo ſometimes it was called *buxum*, from the matter whereof it was made, as

c Cœl. Rhod l. 20. c. 18.

d Turneb. ad v. l. 17. c. 4.

—— *Buxum torquere flagello.* *Perſ. Sat. 3.*

Nuces, with nuts they had many plays, ſome of which are at this day in uſe. One holding an uncertain number of nuts in his hand, his fellow that plaid with him was to divine whether the number was *Even* or *Odde*. This *Horace* calleth

Ludere par impar——

The Grecians ζυγὰ ἢ ἄζυγα. Of this *Ovid de nuce*,

Eſt etiam, par ſit numerus qui dicat an impar:
Ut divinatas arferat augur opes.

Some-

Sometimes they piled their nuts, three beneath, and one on the top, in manner of a Castle: of this *Ovid* speaketh likewise.

Quatuor in nucibus non amplius alea tota est,
Cum sibi supposititis additur una tribus.

Yea, these nut-games were so many, and so peculiar to children, that striplings growing into mans estate, were still reputed children, untill they forsook these nut sports; whence *nucibus relictis* sounds as much as childishness being past: and this is thought to be the reason, why the [e] bride-man, as soon as he was married, used to cast nuts among the people; intimating thereby a farewel to such childish pastimes. Many other childish games they had, among which one resembleth our *Cross and pile*; [f] they termed it *Capita vel navim*; because the coyn which they fillipped or tossed into the air, bore stamped on the one side *Janus* his two faces, on the other side a ship.

[e] Rosin. ant. Rom. l. 5. c. 27

[f] Anton Constant. in Ov. Fast. l. 1.

CAP. 14.

De mensis & conviviis Romanorum.

BEfore we proceed to the description of the Roman tables, we will explain those five terms, *Jentaculum, Prandium, Merenda, Cœna, & Commessatio.* Which five words do signifie the five several feedings each day, which children, old men, labourers, travellers, and such like, did usually observe; for others of healthier and stronger constitution did commonly eat but one meal, at the most but two in the day. *Jentaculum* signifieth their breast-fast, and it had its name, like as our English nach, *à jejunio*, from fasting: In former times it was called *à silatum*, from *Sile*, the name of a certain herb, with the root whereof they were wont to season that wine, which they had at break-fast: for as [b] *Plutarch* saith, their break-fast was nothing but a sop dipped in wine. In the same place he likewise saith, that in old time they had no dinner, but that which we call *Prandium*

[a] Rosin. ant. l. 5. c. 27.

[b] Plut. in Sympos. l. 8. q. 6.

was the same with them as *Jentaculum*, and thus much the Greeck word ἄριστον signifying a dinner, doth intimate, it being so called, *quasi* αὔριστον, from αὔριον, which signifieth the morning. The name *Prandium*, which we render a dinner, was so said *quasi* πρωΐδιον, signifying Noon-tide, or Mid-day. The third time of taking meat, was called *Merenda*, we may english it our afternoons beaver; it was called also *Anticœnium*, because it was taken a little before supper. *c Merenda est cibus, qui declinante die sumitur, quasi post meridiem edendus, & proxime cœnæ; unde & antecœnium à quibusdam dicitur.* The fourth time was their supper; called *cœna, quasi* κοινὸ, which signifieth as much as *Common*, *d quia antiquitus seorsim solebant prandere Romani, cœnare cum amicis.* Their fifth and last time of feeding, was called in Latine *Commessatio* by some, by most *Comessatio*, *a comedendo*. *e Joannes Tristinus* saith, that it is a beaver taken after supper, or a night drinking. But the chief feast, whereat they *f* gave entertainment, being their supper, we will consider three things therein. First, *accumbendi vel discumbendi rationem*, that is, the manner of their lying at supper (for they did neither stand, not sit at table, as we do) secondly, the form and fashion of their table; and lastly the part of their supper. The place where they supped, was commonly called *Cœnaculum à cœna*, as our *dining chamber* is so called from our *dinner*. It was also called *Triclinium*, or *Biclinium*, from κλίνη a bed; for sometimes there were 3. beds, sometimes but 2. about the table, upon which the guests did sit, or rather lie along. In this dining Parlour was placed a table, sometimes made quite round, and for the common sort of people it was made of ordinary wood, standing upon three feet; but for men of better rank, it was made of better timber, inlaid sometimes with wood of divers colours, sometimes with silver, and it stood upon one whole entire foot, made of Ivory, in form of a great Lion or Leopard, &c. Unto the meaner sort of these tables *Horace* alludeth;

c Just. Lips. cent. 1. ep. 65.

d Plut. sym. l. 8 q. 6.

e In orat. pro M. Cœlio.

f Lazius de repub. Rom l. 3. c. 3.

— *Medo*

—— *Medo ſit mihi menſa tripes. Hor. Ser.* 13.

Unto the other, *Juvenal. Sat.* 11. *ver.* 122.

—— —— *putere videntur*
Unguenta atq; Roſæ, latos niſi ſuſtinet orbes
Grande ebur, & magno ſublimis pardus hiatu.

Sometimes this table was made in the form of a half Moon, the one part thereof being cut in with an arch or ſemi-circle, and then it was called *Sigma*, becauſe it did much reſemble the letter *Sigma*, g which as it appeareth by certain marble monuments, was in old time made like a Roman *C*. Hence is that of *Mart. lib.* 14. 87.

g Rom. ant. l. 3. c. 23.

Accipe lunata ſcriptum teſtudine Sigma.

If any man ſhould demand the reaſon, why they cut their table in that form, I muſt confeſs I have not read any reaſon in any author bearing ſhew of a probability. My conjecture is this; it is agreed upon by moſt Authors, that in the round tables the one quarter was reſerved void from gueſts, that the waiters might have a convenient room to attend: thereupon it ſeemeth not improbable unto me, that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath been tranſlated diverſly by divers writers, as it appeareth by *Lipſius* in the fore-quoted place. By ſome it hath been taken for the Parlour, or ſupping chamber, ſo *Lipſius* in his Antiquities; by others for the ſupper or feaſt it ſelf: ſo *Calius*. By *Lipſius* ſince it hath been thought a certain place, erected in the manner of a ſemi-circle, or half Moon, againſt which they did place one continued bed, able to take ſix or ſeven gueſts. But *Brodæus* and *Ditmarus*, in my opinion have more truly taken it for the table it ſelf. About the table that was perfectly round, were placed three beds, covered with tapeſtry, or ſome other kind of covering, according to the wealth and ability of the perſon, and thus

—— *Strato diſcumbitur oſtro:*

The beds being ready furniſhed, the gueſts lie down in manner as followeth. Each bed contained three perſons,

ſons, ſometimes four, ſeldom or never more, except at their great and more ſolemn feaſts. If one only lay upon the bed, then he reſted the upper part of his body upon his left elbow, the lower part lying at length upon the bed; but if many lay upon the bed, then the uppermoſt did lie at the beds head, laying his feet behinde the ſecond his back; the ſecond reſted his head in the others boſom, having a cuſhion put between, laying his feet behind the third's back: in like manner the third and fourth did lie. The number of the gueſts was not great, ſeldom times exceeding nine: whence *A. Gellius* *h* ſaith, that the number of the gueſts ſhould begin with the *Graces*, and end with the *Muſes*, that is, they muſt not be fewer than three, nor more than nine. This alſo hath been the reaſon of that adage, *Septem convivium, novem convitium faciunt.* *Heliogabalus* ſeemeth to have been delighted with the number of eight, *k* whence he invited to ſupper *octo calvos*, *octo luſcos*, *octo podagroſos*, *octo ſurdos*, *octo raucos*, *octo inſigniter nigros*, *octo inſigniter longos*, *octo præpingues*, *& octo naſutos*, *delectatus illo Græco proverbio*, ἀπαντοκτώ. Thoſe that were not invited, but came of their own accord unto a feaſt without bidbing, by *Plautus* they are called *Muſcæ*, flies: by others they are called *Umbræ*, ſhadows. Hence is that of *Horace*,

— *Locus eſt & pluribus umbris.*

The party which invited the gueſts, ſometimes expreſſed his earneſtneſs by pulling and haling one by the cloak: whence *Stukius* obſerveth, that when they would ſhew how earneſtly they were invited, they would ſay *Penulam mihi ſcidit*, He tore my cloak off my ſhoulder. Again on the other ſide, when they would ſhew how eaſily the gueſt was intreated, they would ſay, *Illius ego vix tetigi penulam, tamen remanſit.* Before the gueſts ſate down, their ſhoes were uſually pluck'd off, that they might not foul the bed on which they did lie *l*;

h A. Gell noſt Art. l 13. c. 13. Tribus aut novem nicentur cyathis pocula commodis, qui muſas amat impares Ternos tercyathos attonitus petet Vates, tres prohibet ſupra Rixarum metuens tangere Gratia Nudis juncta ſororibus. Hor. carm l. 3 Od. 19 Alex Gen. de l. 5 c 22 *k* Stukius de conv. l. 4. c. 2

l Terent. in Heautont.

Accuerunt

Accurrunt servi, soleas detrahunt,
Video alios festinare lectos sternere, cænam parare.

m They likewise did gird their heads with fillets and hair-laces, as often as they intended to drink more than ordinary, thereby to prevent the vapours, which otherwise would annoy the head; for which reason, they did likewise *n* use garlands of Ivy, and Myrtle-tree, and Roses: the coolness of which comforted the brain. These garlands were also *Symbolum plenæ libertatis*, a token of their full liberty. The Carver in these feasts was called from his artificial setting and ordering the dishes upon the table, *Structor*: and from his artificial carving and cutting up of the dish, *Carptor*. *Tryphus*, as appeareth by *Juven. Sat.* 11. was famous for his skill in carving: he did set up a school, teaching such as came unto him by rules and precepts: and also shewing them the manner of carving: which that he might the better do, he furnished a table with several dishes of meat, formed and fashioned with wood, with a dull knife shewing his scholars after what manner, and with what gesture of their body they should cut up this or that dish. This supper because of the wooden dishes of meat was called *Cœna ulmea*. They divided their supper usually into three parts, which they termed their first, second, and third course. In the first course commonly was served mulberries, lettices, sausages, and always *Eggs*: as likewise in the last course (whether the second or third) were served nuts, figs, grapes, but always *Apples*: *p* whence we say proverbially, *Ab ovo ad mala*, from the beginning of the feast to the end: or simply from the beginning of any thing to the end thereof. The middle course was the main supper, and the chief dish thereof was called *Caput cœnæ*: In *Lipsius* his phrase it is called *q Fundus & fundamentum cœnæ*. Their first mess they called the *proœnium*; the last, the *epilogue*: which because it consisted so much of sweet and delicious meats, hence did they apply that unto the

m Cœl. Rhod. lib. 27 c. 25.

n Plin lib. 6. cap. 2.

o Stuc. de conv. l. 2. c. 3.

p Pancirol. lib. 1. de perd. rer. cap. de cibi capiendi modo.

q Stuc. l. 3. de conviv.

the second course, ὡ δευτέραι φροντίδες σοφώτεραι, *Secundæ cogitationes sunt sapientiores.* If the table were well furnished with plenty and variety of dishes, it was called *Cœna recta*, or *Cœna dubia: Recta* in this place signifieth as much as *vera*: thus ἐτὸς among the Grecians sometimes signifieth *verus & sincerus*. The phrase intimateth that it was a true supper, opposed to that dole of meat distributed by Princes to the People, which from the pannyer or basket in which it was brought, was called *Sportula*; sometimes they distributed money in stead of meat, this also was named *sportula*: so that *sportula* denoted any kind of dole, either of meat or money, which as often as it was given in lieu of a supper, it was opposed to *cœna recta*. Yea sometimes by *sportula* we may understand a light and short supper.

Turneb. obv. l. 5. c. 19.

Promissa est nobis sportula, recta data. Martial.

The reason why a great Feast should be termed *Cœna dubia*, is, because in such variety of dishes the Guest is many times doubtful of which to begin. Contrary to this is *cœna ambulatoria*, a supper where one dish walketh through the table.

LIB.

LIB. III. SECT. I.

Of the Roman *Assemblies.*

De Comitiis.

HItherto have we insisted upon the description of the most remarkable parts of the *Roman* City, together with the several divisions of the *Roman* people, as also the *Roman* religion; where we have seen the general divisions of their Gods and their Sacrifices, with their Ceremonies thereunto belonging, and likewise of the *Roman* games both greater and less. Now we are to proceed to that part of government, which is political or civil; where we will first speak of their Assemblies called *Comitia*, then of their civil Magistrates, afterwards of their punishments, and lastly, of so many of their civil laws, as I have observed needful for the understanding of *Tully*, and that principally in his Orations. For the more easie conceiving of all which I have prefixed one Chapter of the *Roman* year, treating there of the *Calends*, *Ides*, and *Nones*, the knowledge of which is needful for that which followeth.

CAP. 1.
De Anno & partibus ejus.

INasmuch as there cannot be a full knowledge of the *Roman* Assemblies, without some general understanding of the *Roman* year, and the general distinctions of the *Roman* days, it cannot be but worth our labour in this short Chapter, briefly to consider what may be spoken therein. This word *Annus*, is so called *quasi Annulus*, because (as the Greek word ἐνιαυτὸς signifieth) ἀπὸ τοῦ ἕνα id est, *in se convertitur annus*: which was the reason, why the *Egyptians* in their mystical cyphers (called *literæ hieroglyphicæ*) did use the picture of a serpent, having his tail in his mouth, to signifie an year. The time or space of this year hath been divers, according to the diversity of Nations. *a* Some allowed no more days to an year, than we do to a month, whence that monthly space which the *Latines* and *Menses* from *b* μὴν, signifying the Moon, they called *Annum Lunarum*. Some allowed four months, some six months, some ten. And thus *Romulus* measured his year, counting the months either from the number of our fingers, or from the time that a woman goeth with child, or from the time that a widdow commonly mourned for her husbands death, or lastly from the multiplication of unities which in simple number doth not exceed ten.

a Vid. Plin. l. 7. c. 48

b Fest. Mar. in Ovid. Fast. lib. 1.

Quod satis est utero matris dum prodeat infans,
Hoc animo statuit temporis esse satis.
Per totidem menses à funere conjugis uxor
Sustinet invidiâ tristia signa domo. Ovid. Fast. l. 1.
Annus erat, decimum cum Luna receperat orbem,
Hic numerus magno tunc in honore fuit:
Seu quia tot digiti per quos numerate solemus,
Seu quia bis quino fœmina mense parit,
Seu quòd ad usque decem numero crescente venimus,
Principium fœtûs sumitur inde novis. Ovid. Fast. l. 3.

Thus

Thus *Romulus* his year contained of months ten, of days 304. But after this *Numa* added two months,

At Numa nec Janum, nec avitas præterit umbras.
Mensibus antiquis addidit ille duos. Ovid. l. 1. Fast.

Numa, c or as some say, *Tarquinius Priscus* perceiving that the months did not always fall out alike every year; but sometimes the same month would happen in the Summer, sometimes in the Winter, thereupon after long study and many instructions from the *Grecians*, finding the reason of this confusedness, he added unto *Romulus* his year fifty days, so that the whole year afterward was divided into twelve months; because the Moon had finished her course twelve times in that space; beginning their year then at *January*; because then in his judgement was the fittest time to begin the year, when the Sun being farthest from us, did begin to turn his course, and to come unto us again, which is about *January*, the Sun being about the *Tropick* of *Capricorn*. Afterward upon a superstitious conceit of the odde number, *Numa* added one day more unto *January*, so that whereas at the first *Numa* his year did agree with the *Grecian* year, both of them containing three hundred fifty four days: Now the *Roman* year contained three hundred fifty five days, which computation falling out too short for the true year by the space of ten days, and six hours yearly, it occasioned every eighth year in the interposition of three whole months, which they called their leap year: d This confusedness afterward *Julius Cæsar* by long study remedied, adding the odde ten days unto *Numa pompilius* his year. And least the odde six hours might at last breed disorder in their computation, he appointed that every fourth year a whole day should be inserted, next after the three and twentieth of *February*; which inserting they called *Intercalatio* from an old verb *Intercalo*, and that day they called *Intercalarem*. Now the day following being the four and twentieth of *February*, was always the sixt of the Kallends of *March*, e and therefore because of the interposition of

c Vid. Georg. Merulam in orat. pro Q. Ligario.

d G. Merul. in orat. pro Q. Ligario.

e G. Merul. in orat. pro Q. Ligario.

that day, they called the leap year *Annum bisextilem*, that is, the year wherein their falled out two days, which they called *Sext. Calend. Martii.* And the day thus interposed, was called *dies bissextus.* This computation, which *Julius Cæsar* found out, we have embraced, and do at this day follow, calling our year *Annum Julianum*, *f* and *Annum magnum*, having relation to the monthly year called *Annus Lunaris*; and sometimes this great year is called, *Annus vertens*, *à vertendo*, because it is always turning, and running on. * Moreover we must remember, that the *Romans* did begin their year at *March*; whence that month, which since hath been called *Julius* in the honour of *Julius Cæsar*, was by them called *Quintilis*, because it was the fifth month; and that month, which since hath been called *Augustus*, in the remembrance of *Augustus Cæsar*, was by them called *Sextilis*, because it was their sixth month. Thus then the great year being divided into twelve months, every month was divided into three parts, *id est*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were so proper unto the *Romans*, *g* that *Augustus Cæsar*, when he purposed never to do what he was requested, was wont by way of Proverb to say, that he would do it *Ad Calendas Græcas*, that is to say in our English Proverb, *At latter Lammas*, *never*. For the better understanding of which, I shall insert three common verses,

f R. sin. art. Rom. l. 4.

* Hubert. l. 3. ep. fam. 18.

g Suet. Oct. Aug. c. 87.

Principium mensis nostri dixere Calendas:
Sex Majus Nonas, October, Julius, & Mars,
Quatuor at reliqui tenet Idus quilibet octo.

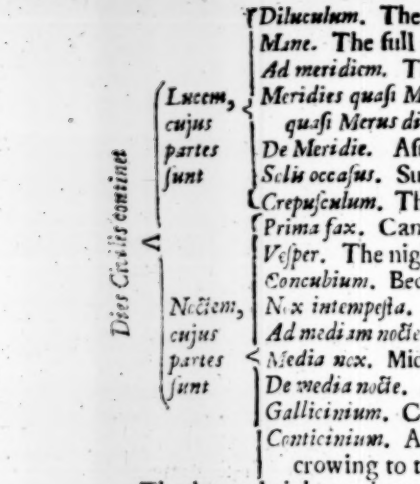
That is, the first day of every month is called the Kalends of that month. The 2, 3, 4, 5, 6, and 7. of these four months, *May*, *October*, *July*, and *March*, were called the Nones of that month: but in all the other months the Nones contained but the 2, 3, 4, and. 5. days; so that the fifth day (for example sake of *January* was called *Nonæ Januariæ*, or *Januarii*, the fourth *Pridie Nonarum*, or *Nonas Jan.*) For they used always to say *Pridie Cal. Pridie Nonar:*

Nonar: and *Pridie Iduum*, instead of *secundo Cal. Non. Id.*) The third day of January they called *tertium Nonarum, vel Nonas Januar.* the second day of January they called *quartum Nonarum, vel Nonas Januar.* After the Nones followed the Ides, which contained eight days in every moneth, so that the 15. day of the four aforesaid moneths was called *Idus Maii, Idus Octob. Idus Julii*, and *Idus Martii.* In all the other moneths, the 13. day was the Ides, as to proceed in January, the 13. day was called *Idus Januar.* the 12. *Pridie Iduum, vel Idus Januar.* the 11. *tertio Iduum*, or *Idus Jan.* the 10. *quarto Iduum, vel Idus Jan.* the ninth, 5. *Id. Jan.* the eighth, 6. *Id. Jan.* the seventh, 7. *Id. Jan.* the sixth, 8. *Id. Jan.* After the Ides then followed the Calends of the next moneth. As the 14. of January was *decimo nono Calendarum*, or *Calendas Februar.* the 15. *decimo octavo Calend. Feb.* the 16. *decimo septimo Cal. Feb. &c.* Where we must note, that as often as we use *Pridie, tertio, quarto*, or any of those numerals with an accusative case as *Pridie Calendas*, &c. the *Grammarians* say that this prepositon *Ante* is eclipsed. Again, every moneth had in its compass three great markers, which because they were observed every ninth day were called *Nundinæ*, and the latter of them being the greatest is called by *Atheneus* τριτινουνδινας, which we may render *Trinundinum*, or *Trinum nundinum.* It followeth now that I should treat of the days, which are the lesser parts of the year: where before we proceed, we will consider the parts which the Romans divided their day into.

Dies

Dies Civilis continet

- *Lucem, cujus partes sunt*
  - *Diluculum.* The break of day.
  - *Mane.* The full morning.
  - *Ad meridiem.* The fore-noon.
  - *Meridies quasi Medius dies*, Mid-day, or *quasi Merus dies*, Perfect day, noon.
  - *De Meridie.* After noon.
  - *Solis occasus.* Sun setting.
  - *Crepusculum.* The Dusk of the evening.
- *Noctem, cujus partes sunt*
  - *Prima fax.* Candle tinding.
  - *Vesper.* The night.
  - *Concubium.* Bed-time.
  - *Nox intempesta.* The first sleep.
  - *Ad mediam noctem.* Towards mid-night.
  - *Media nox.* Mid-night.
  - *De media nocte.* A little after mid-night
  - *Gallicinium.* Cock-crowing.
  - *Conticinium.* All the time from Cock-crowing to the break of day.



The day and night again were each of them divided into *primam, secundam, tertiam, & quartam vigiliam*, every watch containing three hours. The first of the night began at six of the clock in the evening, and the fourth ended at six of the clock in the morning. *g* These watches were distinguished by several notes and sounds of Cornet or Trumpets, that by the distinction and diversity thereof, it might easily be known what watch was sounded. Moreover, we must understand that the *Romans*, upon a superstitious conceit and observation of misfortunes, and evil events falling out on some dayes, and more happy success upon other, have called the former sort of days *Atros dies*, or *dies postriduanos, & Ægyptiacos*: ἀποφράας *Greci nuncupant, perinde ac si nefandos dicas.* The reason why they were called *Prostriduani*, was because they thought *Dies prostridie Calendas, Nonas, & Idas* i. e. The next day after the Calends, Notes, or Ides of every moneth, to be unfortunate, and the latter sort they called *Albos dies*, *h* borrowing the names from the *Scythian*

g Alex. Gen. l. 1. c. 12.

h Vid. Eras. adag. unione signate.

thians, who used to chalk out the fortunate days in their Kalendars with white Characters: whence *Horace* saith,

Cressa non careat pulchra dies vota.

Other-some, as their unfortunate and unlucky days, were noted with a coal or black Character, according to that, —— *Nigro carbone notatus.*

Again, their Kalendar distinguished some days for Holy-days, which they called *Dies festos*, festival days, or *dies Feriatos*, & *Ferias*, Holy-days, *i* because they did upon such days *Ferrire victimus*, i. e. offer up sacrifices. Others were distinguished for working-days, which they called *Profestos quasi procul à festis.* The third distinction was of half holy-days, which *intercidendo*, they called *Dies intercisos*, as it were days cut asunder: the one part of them being allotted for worldly business, the other for holy and religious exercises. *k* The *feriæ* were either *privatæ*, and so they belonged sometimes to whole Families, as *Familiæ Claudiæ*, *Æmiliæ*, *Juliæ*, &c. sometimes to private persons, as every one his birth-day, particular expiations, &c. or else they were *publicæ*, such as the whole Common-wealth did observe; and they were of two sorts, the one called *Anniversariæ*, which were always to be kept on a certain day, *l* and thereupon they were called *feriæ stativæ*; the other *conceptivæ*, which were arbitrary, and solemnized upon such days as the Magistrates and Priests thought most expedient, whereof the *Latinæ feriæ* were chief: which *Latinæ feriæ* were kept on Mount *Alban* to *Jupiter Latiar*, for the preservation of all the Latine people in league and confederacy with the *Romans*, and were solemnized in memory of the truce between those two Nations. Those *Feriæ*, which were called *Imperativæ*, & *m Indictivæ*, because the *Consul*, *Prætor*, or chief Pontiffe, according to their pleasure, *imperabant*, & *indicobant has*, i. e. commanded them, may in my opinion be contained under that number of *Feriæ conceptivæ*, in respect of the uncertainty of them. Another distinction of days is found in the *Roman Kalendar*, to have

i Ascensus in ep. 3 ad ult. c. l. 2.

k Rosin. ant. l. 4. c. 3.

l Alex. Gen. dier. l. 5. c. 7.

m Alex. Gen. dier. l. 6. c. 7. Serv. Æn. 11.

have been in *Fastos*, whole court or leet days; *Ex parte Fastos*, half court-days; *Nefastos*, Non leet-days; though this word *Nefastos* be often expounded unlucky, as in that of *o Horace* touching the tree, *Ille & nefasto te posuit die*, that is, he planted thee in an unhappy time. These days were called *à fando*, from speaking; because upon those days which were *fasti*, the *Preter* or L. chief Justice might lawfully keep court and administer justice, which was not done without the speaking of these three words, *Do*, *Dico*, & *Addico*; *p Dabat actionem*; *Dicebat jus*; *Addicebat tam res quam homines*. Where by the way we must note, that sometimes these court-days were also called *dies Comitiales*, because that *q* upon every such day which was noted in the Kalendar for a Comitial day, if the publick Assemblies were not held, it was lawful to keep court: whence not only *Comitiales dies* doth signifie a law-day, but *Comitialis homo* also doth signifie a wrangler in the law, or a litigious person.

o Carminum l. 2. O. 13.

p Joach. Camerar. pro Flacco.

q Berfman. in suis annot. in Rom. Calen. ad finem Ov. Fast.

CAP. 2.

De Comitiis idq; Calatis præcipue, de Rogationibus, & antiqua scribendi ratione.

EVery assembly of all the *Roman* people being called together by a lawful Magistrate to determine any matter by way of giving voices, is *à cocundo* termed *Comitia* simply, without the adjection of any other word; or *Comitia Calata*, that is, assemblies called together, from καλέω or the absolute Latine Verb *Calo*, which signifieth to call; though afterward those assemblies only which were held either for the inaugurating of some Pontifie, some *Augur*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their wills and testaments, were called *Calata Comitia*. Whence the Will that was made in these assemblies was called *Testamentum Calatis Comitiis*. This kind of assembly is sometimes called *Comitia a Pontificia*, and *Comitia Sacerdotum*, in that sense as others

r Asan. Tristianus in orat. pro Cœlio.

others are called *Consularia*, or *Ædilitia Comitia*, namely, because the Pontifies in these, as the *Consuls* and *Ædiles Plepis* in the other, were chosen. There followeth three oter kinds of assemblies: for either the people did assemble themselves by Parishes, called *Curiæ*; or by hundred, called *Centuriæ*; or by Wards called *Tribus*. The first sort of assemblies they called *Comitia Curiata*, the second *Comitia Centuriata*, the last *Comitia Tributa*: *b* where by the way we must note, that that thing which was determined by the *major* part in any Parish, hundred, or ward, was said to be determined by that whole parish, hundred or ward; and that which was determined by the *major* part of parishes, hundreds or wards, was that to be approved *comitiis Curiatis Centuriatis vel Tributis*. Secondly we must note, that neither children, until they were seventeen yeares old, nor old men after the sixtieth year of their age, were allowed to suffrage in these assemblies; whence arose that adage, *Sexagenarii ponte dejiciendi*, *c* and old men were hence called *Depontani*, for the explication of which see before. Here before we speak of those three several kinds of assemblies, we will consider the manner of their proceedings, in propounding cases unto the assemblies. *d* The custom was at first, that the *Romans* should bestow their suffrages *Viva voce*; but afterward that every one might with free liberty give his voice, they commanded certain wooden tables, wherein the names of those that stood for Offices were written, to be carried about, every suffrager receiving so many tables as here were suitors; then did the people give back that table with whom they would suffrage. But if a law were to be enacted, then every suffrager received two tables, in the one of which were written these two great letters V. R. in the other was written a great Roman A. those who delivered these tables to the people, did stand at the lower end of those bridges; which were erected up for the suffrages to ascend unto the *ovilia*) whence they were called *à diribendo*, *i. e.* from distributing *Diribitores*. At the other end of the

b Sig. de jur. Rom. l. c. 17.

c Pars purat ut ferrent. juvenes suffragia soli, Fontibus infirmos præcipitasses senes. Ovid. Fast.

d Phil. Reroaldus in orat. Ph. l. 11.

brigdes were placed certain chests or little coffers, into which the suffragers which did approve the Law did cast in the first table; those that disliked it, did cast in the second; for by those two letters V. R. which were written in the first, is meant *Ut Rogas*, i.e. Be it as thou hast asked, this word *fiat* being understood; by A. in the second table was meant *Antiquo*, i. e. I forbid it, the word signifying as much as *antiquam volo*, I like the old law, I love no innovations. The tables being thus cast into the chests, certain men appointed for that purpose in manner of Scrutators (they called them *Custodes*, and sometimes *e Nongenti*) did take the tables out of the chests, and so number the voices, by making so many points or pricks in a void table, as they found tables alike: which kind of accounting occasioned these and the like phrases; *Suffragiorum puncta non tulit septem*, and *omne tulit punctum*; where *punctum* is used for *suffragium*: The voices being thus numbred, it was pronounced by the common Crier what was decreed. Because the use of those Tables is now grown quite out of use, I shall make bold to insert that which with much labour I have collected out of several Authors touching these tables. It is certain that a long time the use of paper was not known, whence men were wont to write sometimes upon the inward rindes of trees called in Latine *Libri* (so that to this day we call our books *Libri*, because in old time they were made of those rindes of trees) sometimes they did write in great leaves made of that rush *Papyrus*, growing in *Egypt*, from which we have derived our English word *Paper*, and the Latine word *Papyrus*, now signifying writing paper. Shortly after the invention of this Egyptian paper, *Ptolomy* the King of *Egypt* restrained the common making thereof, because of the great *a* emulation between him and *Eumenes* King of *Pergamus* concerning their Libraries: not long after therefore *Eumenes* having found out the making of parchment, he made use thereof in writing, and called it from the place *Pergamenta*. At this time

e Plin. l. 33. c. 2.

a Plin. l. 13. cap. 11.

time did the *Romans* use to write in tables of wood, covered with wax, called in Latine *ceratæ tabulæ*. They wrote their Wills and Testaments in tables, *b Hinc secundum & contra tabulas bonorum possessio*; The possession of goods either according to or against the Testator his Will. Because of the wax wherewith these tables were covered, *cera* is often used in the same sense; *Hæredes primæ ceræ*, i. e. *primæ tabulæ, & primo gradu instituti*, by which words I think are understood such heirs as *Alexander* calleth *Hæredes ex toto asse*, that is heirs to the main inheritance, opposing them to those which did receive only legacies, whom he calleth there *Hæredes in ima cera, secundos hæredes, & legatarios*. d *Sylvius* not upon improbable grounds doth think that *Tully* doth understand by *Hæredes secundi*, such heirs as were nominated to succeed the chief heir or heirs if they died. They wrote their accounts in tables, hence *Tabulæ accepti & expensi*, signifying reckoning books. These count-books were *e* of two sorts, some monthly, without order or method, called *Adversaria: Quod adversa parte etiam scriptis implerentur*. Others perpetual, being the transcript of the former, called *Tabulæ accepti & expensi*. They wrote their statutes also in tables, whence *Tabulæ publicæ* are Englished statute-books, or other books of record. Those writings or instruments which the Senate or Emperor caused to be hanged up in the Market-place, to release and discharge any bankrupt from paying his debts, they termed *tabulas novas*, we may English them *f* Letters of protection. They wrote their inventories of goods set to sale in Tables, calling them *tabulas actionarias*: yea they indited their epistles and common letters in tables: insomuch that *tabellæ* are expounded missive letters, *and tabellarius*, which properly signifieth a carrier of tables, is now used to signifie a letter carrier: yet they *g* sometimes wrote also in plates of lead; *εἰς ἐλάσμους μολυβδεῖν γραφόντες*. And thus we may understand what *h Suetonius* meaneth by *charta plumbea*, concerning

b P. Tillitar. in ora. pro A. Cœcinna.

c Alex. Gen. dier. l. 1. c 1.

d Fr. Sylv. pro Cluent.

e Cœl. Rhod. l. 12. c. 21.

Fr. Sylv. in orat. Catilin.

g Suidar. in voce μόλυβδος.

h Suet. Ner.

cerning all these, *i Plini* writeth excellently. Before the use and making of paper was invented, men wrote at first in Palm-tree leaves, afterwards in the rindes of certain trees; afterward publick monuments were recorded in volumns or rolls of lead, at last private matters, on fine linnen or wax. *k* The manner how they sealed their letters was thus: they did bind another table unto that wherein the inditement was, with some strong thread; sealing the knot of that thread with wax; whence *Cicero* saith, *Linum incidimus*, that is, we opened the letters; hence also is that of *Platus*, *Cedo tuceram ac linum age, obliga, obsigna cito.* *l* The impression was commonly their own image, or the image of some of their ancestors. The matter on which the impression was made, was not alwayes wax, but sometimes a kind of tempered chalk, which occasioned that phrase of *Tullies*, *m Signum ille animadvertit in cretula.* *n* Lastly, they wrote their books in tables, whence from them we do at this day call our books *codices à caudicibus*, *caudex* signifying properly the trunck or stock of a tree, whereof these tables or books were made. We must note withall, that they wrote not with ink or quill, but with an instrument of steel or iron, having *o* a sharp point at the one end, and being broad, yet keen and well edged at the other; with the sharp point they did write what they pleased, with the broad end they did scrape out what they had written: whence *Stylum invertere*, is to say and unsay a thing, to turn his punch the wrong end downward, as it were to scrape out that which one had formerly written. The *Romans* did afterward use instead thereof, an instrument made of bone, prohibiting the use of iron ones, as *p Isidore* noteth by that law, *Ceram ferrone caedito.* And as we use this word *Manus*, to signifie the writing it self, according to that of *q Tully*, *cognovit manum, & signum suum*: so in the like sense we use this word *Stylus*, to signifie the peculiar tenure or strain of phrase which any man observeth in the composing of an oration, epistle, or such like,

i Plin. l. 13 c 11.

k F. Sylv. in orat Catil. 3

l Just. Lips. ep. cap. 4

m Cic. 4. in Verrem.

n P. Pellitar in orat. pro A. Cœcina.

o Vid. Eras. Adag.

p Herman. Hugo de prima scrib. orig. c. 9.

q Cic. orat. cont. Catil.

in

in which sense *Tully* useth it, as the antitheton to *gladius* in that speech of his, *Cedat forum castis, otium militiæ stylus gladio*, though in another place he useth it to signifie, if not a sword yet a pocket dagger, as, *Et si meus ille stylus fuisset*; *s* in which place *Stylus* doth signifie as much as *pugio*. And here seeing we are here fallen into the manner and custome of ancient writing, it will not be amiss to note, that usually at the end of their books, they printed a little mark, which they termed *Coronis*. Those that interpret *Aristophanes*, describe that mark thus, saying, that it is *t Linea brevis ab inferiore parte flexa*. All agree in this, that it was some common and known dash usually subjoyned to the end of books. *u* Others are of opinion, that the ancient *Romans* did in the like manner adorn the frontispiece, or beginning of their books with the picture of an half Moon; which observation giveth light not only to that adage Ἀπὸ τῆς ἀρχῆς μέχρι τῆς κορωνίδος, from the beginning to the ending; but also that of *Martial. l.* 10.

Si nimius videor, seraq; coroinde longus
Esse liber, legito pauca, libellus ero.

And that of *Ovid*,

Candida nec nigra cornua fronte geras.

For in *Turbennus* his judgement those half Moons præfixed were called *Cornua*. Howsoever this may be true touching the dash, or character at the end of the book, and that it was termed *Coronis*; yet I doubt whether any such half Moon was usually præfixed in the beginning of books, or whether such an half Moon were denoted by the Latine word *Cornu*. More probable in his opinion, *x* who treating of this very matter, saith, that in old times a whole book was written in one continued page, neither did they then cut their books into many leaves, and bind them up in that manner as we do; but that one entire page in which alone the booke was written, was wont to be rolled up upon a staffe, fastned at the end thereof, in manner as many large Maps are now

s Cic. orat. pro muræn. Mic. Toxit. in orat. Phil. 2.

t Cœl. Rhod. l. 15. c. 20.

u Turn. adv. l. 22. c. 10.

(coronide

Legito.

x Pyr. hierog. lib. 34.

now adays with us: hence it is *à volvendo*, that we call our books *Volumnia*, Volumns. This ſtaff on which the book is rolled was called *Umbilicus*; the ſame word ſignifieth a navel, which becauſe it is the middle part, and as it were the centre of a mans body, hence approved Authors uſe the word to ſignifie the middle of any thing; and haply the name was firſt given this ſtaff, becauſe when the book was rolled up the ſtaff was the middle thereof: howſoever, becauſe it was faſtned alwayes at the end of the page, hence *Umbilicus*, eſpecially when it is applyed to a book, ſignifieth the end thereof, as *Horace ad umbilicum ducere*, to bring to an end. The two pumels, or ends of this ſtaff, which did jet out and appear on each ſide of the Volumn, they called *Cornua*; and they were wont to be tipt with Silver, or Gold, or otherwiſe adorned. The Title which was the beginning of every book, was termed *frons*. This ſeemeth more probable than that of *Turnebus*, and giveth greater light to that of *Ovid*.

Candida nec nigra cornua fronte geras.

Now that we may proceed to the matter whence we have diſgreſſed, it remaineth that we ſhould declare the manner how they enacted their laws. All the *Romans*, though free Citizens, had not power and authority of preferring the law, but only eight of their Magiſtrates, which they called *Magiſtratus Majores*, namely the *Prætor*, the *Conſuls*, the *Dictator*, the *Interrex*, the *Decem-viri*, the *military Tribunis*, the *Kings*, and the *Trium-viri*, unto theſe eight were added one of thoſe whom they entituled *Magiſtratus minores*, namely the *Tribunus plebis*. If any of theſe Magiſtrates thought it fit to prefer a law, then did he firſt write it down at home, and conſult with ſome Lawyer, whether or no it might be for the good of the Common-wealth, whether it ſhould not weaken any former Law, or whether it was not formerly included in ſome other law, *&c.* Theſe and many other cautions were to be conſidered before it was preferred;

ferred; yea ſome would have the approbation of the whole Senate after their advice of the Lawyer, though divers times that hath been omitted, and the Lwayer alone allowing it; the Law was hanged out publickly in the Market place for the ſpace of three Market days, which kind of publiſhing the Law was termed *Legis promulgatio, quaſi provulgatio*, during which time of promulgation reaſons were alledged *pro* & *con* by the ſpectators, and all the people had ſo much time to conſult of the conveniency thereof, and every one upon juſt reaſon had free liberty to admoniſh him that preferred the Law, either to amend it, or ſurceaſe the propoſal. After the third Market day (for unleſs it were upon an extraordinary occaſion, no aſſembly might be called upon a market day, becauſe of the country folks buſineſſes, they alſo having freedom of ſuffraging) the Magiſtrate did convocate the people to that place where the Law was to be propoſed; there the Town-Clerk, or Notary, reading the Law, the common Crier proclaimed it; then did he which promulged it, make an oration unto the people, perſwading them that it might paſs. Sometimes others of his friends would ſecond him with Orations in his behalf, as likewiſe others that diſliked it, would by Orations diſſwade the people, ſhewing the inconveniency thereof. After the Orations had been ended, an urn or pitcher was brought unto certain prieſts there preſent, into which were caſt the names of the Tribes, if the *Comitia* were *Tributa*; or of the Centuries, if they were *Centuriata*; of the Pariſhes, if *Curiata*: then *ſortibus æquatis*, that is, the lots being ſhaken together, they drew their lots: & that Tribe or Century whoſe name was firſt drawn, was called *Tribus vel Centuria prærogativa, à prærogando*, becauſe they were firſt asked their voices. *Turneb.* interpreting that of *Tully*, *Majores voluerunt prærogativam omnem eſſe juſtorum comitiorum*, interprets it, That the *Romans* did ſo depend upon the prerogative Century, that they would always declare him *Conſul* that was choſen by them,

them, *ad l.* 5. *c.* 23. That *Curia* upon which the first lot fell, was cal'd *qPrincipium*, because that *Curia* did first suffrage: those Tribes upon whom the others lots fell, namely the 2. 3. 4. &c. were termed *Tribus jure vocatæ*. From this distinction it is, that such a man as hath the voices of the prerogative Tribe or Century is said to have *r Omen prærogativum*: which good fortune whosoever could attain unto, was in great hopes of obtaining the other voices of the *jure vocatæ*; for they never, or very seldome, would swerve from the determination of the prerogative Tribe or Century. Whilst the people were busie in their lottery, in the mean time if any *s* Tribune of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, & the whole assembly should thereupon be dismissed; likewise they were dismissed, if either he which first promulged the law did alter his opinion, or if the Consul commanded supplications to be offer'd up in the behalf of their Emperour, or any of those holy-days, called, *Feriæ Latinæ vel Imperatoriæ* to be observ'd upon that day, or if any of the people assembl'd were taken with the falling sickness (by reason whereof that disease is called by the *t* Physitians at this day *Morbus Comitialis*.) Lastly the assemblies were dissolved by reason of the Sooth-sayings, which kind of dissolution was caused, either the civill Magistrates observing of signs and tokens in the heavens, and that was called *Spectio*, and sometimes *De Cælo observatio*; the very act of this observation, though no unlucky token did appear, dissolved the assembly: or else it was caused by the *Augures* and civil Magistrate promiscuously, whensoever any evil token was seen or heard, either by the Magistrate, or *Augure* (amongst which thunder was always counted the unluckiest) at which time the assemblies were in like manner to be dissolved. This manner of dissolution was termed *Obnuntiatio* or *Nunciatio* u *Obnunciabat, qui contra auspicia aliqua fieri nunciabat*. Both these kinds are easie to be collected out of that speech in *Tully*, x *Nos Augures Nunciationem*

q Rosi. n. ant. l 6. c. 7

r Cic pro Muræn.

s Hub. in lib. 1 Cic. ep. fam. 2.

t Fuch si Inst. medic. l. 3. s. 1.

u Stadius, in Flor. l. 3. c. 7.

x Cic. orat. Philip. 2.

tam habemus, Consules & reliqui magistratus etiam speciem. Here we may fitly in way of conclusion unto this tract, add just difference to be observed between these phrases, *Promulgare, Rogare, Ferre, & Figere legem. Promulgare legem*, was to hang up a law not yet asked, to the publick view of the people, to be examined by them touching the conveniency thereof. *Rogare legem*, was to use a certain Oration unto the people, to perswade the conveniency of the law; which Oration because it began with this form of words, *Velitis jubeatisve Quirites?* that is, O ye *Romans*, is it your will and pleasure that this law shall pass or no? Hence was it termed *Legis rogatio. Ferre legem*, was when the law had been approved of by the people, then, to write it down upon record, and so to lay it up in the treasure-house: *y Cum approbata fuisset lex, in as incidebatur, & in aerario condebatur, & tunc demum lata dicebatur.* Lastly, *Figere legem*, was to publish the law after it had been approved and recorded *z* by hanging it up in tables of brass in their Market-places, or at their Church doors. Hence it is that we use *a Tabulam figere* in the same sence, namely to enact or establish a law, and *Refigere legem*, to disprove or cancel a law. *b* And that which was determined *Comitiis curiatis*, was termed *Lex curiata*; that which was *Comitiis centuriatis*, *Lex Centuriata*; that which was *Comitiis tributis*, was not called a law, but *Plebiscitum.*

y F. Maturantius in Phil. 2

z Cor. Tacit. annal. l. 11.

a F. Matur. in Phil. 12.

b Sig. de jure pro l. 3. c. 1.

CAP. 3.
De Comitiis Curiatis.

Comitia Curiata were those, wherein the *Roman* people being divided into 30. Parishes, did give their suffrages: They were so called from *Curia*, signifying a Parish. And until *Servius Hostilius* his time, who did first institute the *Comitia centuriata*, all things which were determin'd by the suffrages of the people, were determin'd by these *Curia comitiata*: But after the other two sorts

of assemblies had been established, these *Curiatæ* were used only either for the enacting of some particular laws or for the creating of some certain Priests called *Flamines*. For the better understanding hereof, we must remember, that though at first these thirty Parishes were parts of the three Tribes (each Tribe being divided into Parishes) yet in process of time the increase of the Roman people was such, that a great part of the Roman fields were filled with buildings and places of habitation, insomuch that the Tribes of the Romans were increased to thirty five: but the Parishes (because none that dwelt out of the city were tied to the rites and ceremonies of the Roman Religion) did not increase, so that the Parishes did not alwayes remain parts of the Tribes. Hence it followeth, that all the Romans had not power to suffrage in these Assemblies, but those alone who dwelt within the City, for no other could be of any Parish. The place where these assemblies were held, was the great Hall of Justice, called from these Assemblies *Comitium*. Before these Assemblies were held, it was required that some lawful Magistrate for some competent time before-hand should solemnly proclaim them, and the thirty Serjeants (each Parish having for that purpose his Serjeant) should call the people together: as likewise three *Augures*, or at least, one should be present to assure them by their observations, either of the favour or displeasure of the Gods. Upon these premises the matter was proposed unto the people, who if they liked it, then they proceeded unto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their Assemblies were presently dissolved.

CAP.

CAP. 4.
De Comitiis Centuriatis.

AS those former assemblies were called *Curiata à curiis*, so were these called *Centuriata à centuriis*. *Servius Tullius* caused a general valuation of every Citizens estate throughout *Rome*, to be taken upon record, together with their Age, and according to their Estates and Age, he divided the *Romans* into six great Armies or Bands, which he called *Classes*; though in truth there were but five of special note; the sixth contained none but the poorer sort, and those of no worth or esteem. The valuation of those in the first *Classis*, was not under two hundred pounds; and they alone by way of excellency were termed *Classici*; and hence figuratively are our best and worthiest Authors called *Classici scriptores*, Classical Authors. *d* All the others, though they were inrolled in the second, third, or any other *Classis*, yet were they said to be *Infra classem*. The valuation of the second Band was not under sevenscore pounds. The valuation of the third was not so little as an hundred pounds. Of the fourth not less than forty pounds. Of the fifth not less than twenty five pounds. The sixth contain'd the poorer sort, whom *Horace* calleth *Tenuis census homines*, men of smal substance; and also they were called *Proletarii, à munere efficioq; prolis edendæ*, as if the only good that they did to the Common-weal, were in begetting our children; & sometimes they were called *Capite censi*, that is, such as paid very little or nothing at all towards Subsidies, but only they were registred among the Citizens, as it appeareth by *e Sigonius*. These six great bands or Armies were subdivided into hundreds, called in Latin *Centuriæ*. The first *Classis* contained fourscore Centuries of footmen, and eighteen of horsemen; The second contained twenty centuries of footmen & two of workmen, which followed after to make

d Gel. l. 7. c. 13.

e Sig. de iur. Rom. l. c 4.

military engines and weapons: The third alſo, as likewiſe the fourth, contained twenty centuries of footmen, but to the fourth was added two other centuries of Trumpeters, Drummers, & ſuch like, who upon juſt occaſion did *Claſſicum canere*, ſound the Alarum, and upon juſt occaſion did again *receptui canere*, ſound the retreat. The fifth *Claſſis* contained thirty centuries of footmen: the ſixth or laſt *Claſſi* contained one century: ſo that in all the 6. *Claſſis* were contained 193. centuries. Where we muſt note, that all the centuries of footmen did conſiſt, the one half in every *Claſſis* of the younger ſort, who were to make war abroad upon the enemies; the other half of old men, who remained at home for the ſafety of the City. All that hath been hitherto ſpoken of theſe *Centuriata Comitia*, may be collected out of *Sigonius* in the place above quoted. The chief Commander of every century was called *Centurio*; the rod or tip-ſtaff wherewith he did ſtrike his Soldiers to keep them in array, was called by *Pliny*, *Centurionum vitis*. So then we may perceive, that thoſe *Centuriata comitia* were thoſe wherein the people did give their voices by centuries or hundreds. Now the centuries did not conſiſt of thoſe alone which had their places of habitation at *Rome*, but of certain *Municipal* States alſo, and ſuch Colonies or other States that could *d Plenum civitatis jus cum jure ſuffragii adipiſci*. *e* Now the cuſtom in old time was, that all theſe centuries ſhould march in their armour after the Magiſtrate which Aſſembled them into the *Campus Martius*, there to give their voices. But this cuſtom continued not long: for thereby they did diſarm the City, and give their enemies (if any ſhould aſſail them in time of their aſſemblies) the greater advantage; for their greater ſecurity thereof, they appointed a flag to be hanged out upon the mount *Janiculus*, ſome few armed men ſtanding there in watch and ward for the ſafeguard of the City; and when the aſſembly was to be diſſolved, then did the watch depart, and the flag was taken down: neither could

d Roſin. ant. l. 6. c. 19.
e Roſin. ant. Rom. l. 6. c. 15

could any thing after that be determined, but if they continued their Assemblies, then did they proceed to the giving of their voices, in old time thus: Those centuries of the Classis being the wealthier, had the Prerogative of suffraging first, and because his first Classis contained more centuries than all the rest, therefore if they could agree among themselves, the other centuries were never asked their voices. This kind of suffraging being somewhat partial, inasmuch as the richer and wealthier being placed in the first Classis, did oversway the elections against the poorer sort of people, thence did the after ages appoint that that century should have the Prerogative of suffraging first, upon whom the lot fell. The other centuries were called *f centuriæ Jure vocatæ*, and did give their voices, not by lots (as the *Tribus Jure vocatæ* did) but the elder and wealthier centuries did suffrage next after the Prerogative century, according as their place required.

f Rosin. ant. Rom. l. 6. c. 20

CAP. 5.
De comitiis Tributis.

FOr the better understanding of these assemblies by Tribes or Wards, it wil be needful first to learn, that this word *Tribus* in this place doth signifie a certain region, ward, or local place of the City, or the fields belonging thereunto, according to that *g Tributer Comitia erant, cum ex regionibus & locis suffragabantur.* It was so called either *à tributo dando*, every several region or quarter paying such a tribute: or *quia primo tres tantum fuerunt*, the whole City being at first divided only into three regions, or wards, each national trible having his several region, or local tribe to dwell in. The first national tribe called *Ramuenses*, did inhabit the Mount *Palatine*, and the Mount *Cœlius*; and those two hils made the first local tribe. The second national tribe called *Tatienses*, did inhabit the *Capitol*, and the *Quirinal* Mountain, which two Moun-

g Agell. l. 15. c. 27.

Mountains made the second local tribe. The third national tribe did inhabit the Plain between the *Capitol* and the *Palatine* Hill, and that plain was called the third local tribe. Of these tribes more is spoken in the first division of the *Roman* people. Only here we must note thus much, that in process of time, after the City was inlarged, and the number of the *Roman* Citizens increased, these local tribes were also augmented, so that they amounted at the last to the number of 35. some of them being called *Urbanæ*, others *Rusticæ*; *b Urbanæ ab urbis regionibus, Rusticæ ab agri partibus erant nuncupatæ.* And of those two sorts, the *Tribus rusticæ* were accounted the more honorable, Moreover we must remember, that a man might be reputed of this or that tribe, although he had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometime they fell out to be in the *Campus Martius*, somtimes in their great Hall of Justice, called *Comitium*, sometimes in the *Capitol*; many times in other places, according to the discretion of the Magistrate which caused these Assemblies.

b Sig. de jur. Rom. l. 1. c. 3

CAP. 6.
De Canditatis.

IT shall not be impertinent to annex some necessary observations touching the *Roman* Petitors or Suitors for bearing office: where we will observe these three phrases, *Ambire magistratum*, *Inire magistratum*, and *abire magistratu*. The first signifieth, to sue for an office: the second, to enter into the office: the third, to depart out of the office. Again, the difference of these phrases, *Conficere legitima suffragia, & Explere suffragia. i.* The first signifieth, to have so many voices as the law doth require. The second signifieth, to have more voices than any other Competitor, but not so many as the law requireth.

i Rosin. ant. Rom. l. 10. c. 6

These persons were termed *Candidati, à toga candida*, from the white gown which they did wear, as it appeareth

eth more at large, where we have spoken *de Romana toga*. That they might the easier procure the good-will of the people, these four things were expected from them. First, *Nomenclatio*, the saluting of every Citizen by his name; for the better discharge of which, they had a certain follower, which should by way of prompting, tell every Citizen his name as he passed by, and hence this prompter was sometime called a *Nomenclator*, which word doth properly signifie a common cryer in a Court of Justice, such as call men to their appearance, whence they had their names from *Nomen* and *calo*, an old Latin word to call; somtimes *b Monitor*, somtimes *Fartor ab infarciendo in aures*. 2. *Blanditia*, that is, a friendly compellation by the addition of some complemental name, as well-met friend, brother, father, &c. 3. *Assiduitas*, that is, an hot canvasing, or soliciting men without intermission. Lastly, *Benignitas*, a bountiful or liberal largess or dole of mony called *congiarium*, from the measure *Congius*, containing a Gallon; because their *l* dole was at the first made of Oil or wine distributed in those measures. Howbeit κατὰ χρῆσιν any dole, gift or largess in money, or otherwise, is called *Congiarium*. The distributers of this dole were called *m divisores*, & *n sequestres*, although somtimes *sequester* signified a briber or corrupter of a Judge. Likewise their bounty or liberality consisted in providing great dinners, and exhibiting magnificent shews unto the people, &c. Where we must observe, that as often as this largess is called *Largitio*, it is taken in the worst sence, namely for an unlawful bribing of the suffragers under a pretended largess, *o Benignitas liberalitatem magis significat quam largitionem*.

Rosin. ant. Rom. l. 7. c. 8.

a Cic. orat. pro L. Mur. Mercemer. servum qui dicter nomina, &c. Hor. l. 1. ep. 6.

b Cic. loco supra citato.

l G. Trapez. in Philip. 2.

m Sig. de jur. l. 2. c. 29.

n Bart Lat. in orat. pro M. Cœl.

o Cic. orat. L. Mur.

CAP. 7.
De Romanis vestibus.

WE may observe in reading old Authors, that as well the *Romans* as the *Græcians*, had divers distinct

ſtinct habits, or outward veſtiments. The *Græcians* had their Mantle called *Pallium*, the *Romans* their Gown called *Toga*: and by this different kind of garments the one was ſo certainly diſtinguiſhed from the other, that this word *Togatus* was often uſed to ſignifie a *Roman*, and *Palliatus* a *Grecian*. *f Togati pro Romanis dicti, ut Pallati pro Græcis.* Before we proceed, we will firſt obſerve what this *Toga* was, and then how many ſorts there were.

g Toga, à tegendo dicta eſt. It was made commonly of wool, but according to the worth and dignity of the perſon, ſometimes of a courſer, ſometimes of a finer wool; as we may collect by that of *Horace*.

Mihi ſit toga, quæ defendere frigus
Quamvis craſſa queat.

We muſt note with *Toxita*, that no woman of any credit did wear the *Roman* Gown, but inſtead thereof did uſe a garment called *Stola*, from στολὴ, ſignifying *demitto, quod uſq; ad talos demitteretur*: Whence old Poets, when they would point out unto us an infamous or lewd ſtrumpet, they would term her *i mulierum togatam*. *k* This *Toga* ſometimes was worn open and untuckt; then was it called *Toga aperta*: other times it was tuckt up, and then it was called *Toga precincta*. This cincture or girding up of the Gown, was according to *l Sigonius*, threefold; *Cinctura laxior, aſtrictior* and *Cinctus Gabinus*; *Cinctura laxior*, or the looſe kind of girding was ſuch, that notwithſtanding the tuck, yet the rail trailed on the ground; *Cinctura aſtrictior*, the cloſe kind of girding was ſuch, that after the Gown had been lapped, or tucked up, it ſhould not reach ſo far as the feet. The firſt kind of theſe cinctures did argue a remiſs, ſoft, and effeminate mind: the latter did ſignifie the promptneſs or readineſs of the perſon, *m Unde, Alte præcincti, pro expeditis dicti ſunt.* 3. *Cinctus Gabinus* was a warlike kind of girding, not ſo that the whole Gown ſhould be tucked up about the middle, but that it being caſt quite backward, the party ſhould gird himſelf with one skirt thereof

f Sig. de jud. l. 3. c. 19.

g Mic. toxit. in orat. Phil.

Mic. tox. ib.

i Roſin. ant. Rom.

k Sig. de jud. l. 3. c. 19.

l Sig ib.

m Sig. ib.

of. *n* This kind of girding was so called from a certain City of *Campania*, called *Gabii*, because upon a time the inhabitants of this City being at sacrifice, were set upon by their enemies; at which time they casting their gowns behind them, and girding one lapper or skirt about them, went immediately to war, even from the altars, and got the conquest. *o* In memory of which ever after, the *Consul* when he should proclaim war, girded himself in like manner. Neither had the *Consul* alone a peculiar garment when he proclaimed war, but every souldier in time of war did wear a different kind of garment from the gown, which they called *Sagum*: we may English it a souldiers coat. Whence *Tully* useth this phrase, *ad saga ire*, which *Erasmus* hath paralleld with this, *Ad certamen se accingere*, to buckle for war. Insomuch that *Cedant saga togæ*, is equivalent to that of the Orators, *Cedant arma togæ*. Touching the difference of the Roman Gowns, I find them distinguished by *p Sigonius* according as followeth; in *Togam Puram*, *Candidam*, *Pullam*, *Prætextam*, *Paludamentum*, *Pictam*, *Trabeam*. *Toga pura* was the common ordinary gown worn by new married women, and *Tanaquill prima texuit rectam tunicam, qua simul cum toga pura tyrones induuntur, novæq; nuptæ. Plin. l.8.c.48.* and by private men at mans estate, about the sixteenth year of their age, at which time they were said *Excedere ex ephebis*, that is, to be past striplings. Notwithstanding the sixteenth year was not always strictly without exception observed: *q* for *M. Aurelius* was permitted to wear this gown being but fifteen years old: and *Caligula* did not wear it till the nineteenth year of his age. This kind of gown beside that it was called *Pura*, was also sometimes called *virilis*, sometimes *libera*. It was called *Pura* in respect of its pure white colour, being free from all admixtures of purple, or any other colour: and therefore some have termed it ὁλόλευκον, all white, others ἀπόρφυρον, void of purple. It was called *virilis*, because it was given to striplings, now growing to mans estate.

n Serv. Æn. id. l. 7.

o Alex. Gen. dier. l. 1. c. 14.

p Sig. de jud. l. 3 c. 11.

q Rosin. ant. l. 7. c. 10.

Et toga non tactas vincere lussa naves. *Mart.*

Whence we uſe to ſay of a ſtripling paſt ſixteen years of age, *virilem togam ſumpſit*, he is now become a man. Laſtly, it was called *libera*, r becauſe then they did recieve ſome beginnings of freedom, as being about that time freed from their ſchoolmaſters and overſeers. This kind of gown was not made open, but ſewed down to the bottom, and alſo it was made without ſleeves, ſo that if at any time they had occaſion to uſe their arms, they would take up their gown and caſt it quite behind them, or upon their ſhoulders. But theſe ſtriplings could not for one whole years ſpace, caſt back their gowns in that manner for their liberty of their arms without the imputation of immodeſty, as appeareth by *t Cic. Nobis annus erat unus ad cohibendum brachium toga conſtitutus.* The like liberty it ſeemeth was denied thoſe that ſtood for places of office: *u* and thence it is, that *Horace* wiſheth ſuch to hire them a ſervant,

r Roſin. ant. Rom. l. 5 c 32.

Aldus manu.

t Cic. in orat. pro Cœlio.

u Sig. de jud. l 3. c. 19.

------ *Lævum*
Qui fodiat latus, & cogat trans pondera dextram
Porrigere -----

In which place by *Pondera* is underſtood the Roman gown, as *x Sigonius* hath expounded that place. Now for the underſtanding of *Toga candida*, we are to learn a difference between this *candida toga*, and the *toga pura* above ſpoken of, which is ſometimes called *toga alba*, both of which were white, but differed in the degree of whiteneſs. The *toga alba* had only the natural whiteneſs of the wooll, the *toga candida* had an artificial white dye, whereby the gloſs of the white was made more orient and intenſive. Or elſe as *y Sigonius* hath obſerved out of *Iſidor. intendendæ albedinis cauſa cretam addiderant*, that is, they chalked it to increaſe the whiteneſs hereof. And hereunto *Perſius* alludeth:

x Sigon. ib.

y Sigon. ib.

------ *Quem ducit hiantem Cretata ambitio.*

Whence *Pollybius* calleth it *togam λαμπρὰν*, that is, ſhining or ſplendent. Moreover, whereas the *alba toga* was the ordinary Roman gown which commonly the Roman Citizens

Citizens did wear, this *Candida toga* was only worn by those which did *Ambire Magistratum*, sue for a Magistracy, or place of office, who during the time of their sute, were called from their gown, *Candida:* and *Quintilian* borrowing his metaphor from them, hath called a young student *eloquentiæ canditatum.* The third sort of gown, which I termed *Togam pullam*, was a black gown, and thereof were two several kinds: the one cole-black, which was worn *luctus causa*, in token of mourning; and the mourners were thence called *Atrati*, and as often as they did wear this gown, they were said *Mutare vestem*, z which phrase in old Authors, doth signifie nothing else but to go in mourning apparel: The other not cole-black, but only foul'd or stained, and that was worn *reatus causa*, in times of arraignment, and those that wore it, were called *Sordidati*, *à sordibus in veste*, from the spots or stains in the gown. Where we must note, that in proces of time *Toga pulla* became the ordinary gown which the common people did wear; at which time the ordinary gown which the Citizens of better place and esteem did wear, was the *toga candida*; whereupon there did then grow a distinction of the Citizens, unknown to the former age, saith *Rosinus*, namely, that some were termed *candidati*, others *pullati*: *Candidati* were those, not which became suters for places of office (as in old time it signified) but those which did live in better repute than others; from whence it is, that a he whose office was to read the Emperors Letters in the Senate, was called *Candidatus principis*, or *Quæstor candidatus.* It did somewhat resemble the office of the King his Majesties chief Secretary. *Pullati* were those of the commonalty or inferiour sort. The fourth sort of gown was the *Toga prætexta*, so called, *qui a ei purpura prætexta erat*, because it was guarded about with purple silk. This kind of gown at first was used only by the *Roman* Priests, and chief Magistrates: Neither was it lawful for such as did wear that gown to be arraigned, or sentence to be given on them

z Sig de jud. l. 3 c. 19 Cic. orat. pro P. Sext. Suum dolorum veste mutra significabant Romani.

a Rosin. de Mag. Rom. c. 3.

untill that gown was put off. In continuance of time this *toga prætexta* was permitted first to noble mens children, afterward to all *Roman* children in general: whereupon *b Togatus à prætexto differt ut privatus à Magistratu, & vir à puero*; and *ætas prætexta* is taken for child-hood, and *prætextati* sometimes for Magistrates, but commonly for young children. The fifth sort of gown was called *Paludamentum*; it was a military garment, which none but the Lord General, or the chief Captains did use to wear. *d Isidorus* said it was not only guarded with purple, but with scarlet and gold lace: whence it was sometimes called *e Toga purpurea*, sometimes *coccinea*. It was much like the habit which the *Grecian* Emperour was wont to wear, called *f Chlamys*; yea, now it is called *Chlamys*; we may English it an *Heralds* Coat of Arms. The sixth sort of gown was *Toga picta*, *g* because in it were imbroidered goodly pictures with needle-work: It was also called *Purpurea*, not because of any purple-guard (in which respect the *Prætexta*, and the *Paludamentum* were called *Purpurea*) but because it was all over of a Purple dye: it was by some termed *toga palmata*, because in it many Palm branches being the reward and token of Victory were wrought, whence by others it was called *toga triumphalis*, because Emperors in their triumphs did wear such gowns. The last sort of gown was *Trabea*, whereof there were *h* three several kinds; the one woven all of purple, which was consecrated unto the Gods, the second was purple woven upon white, and this only Kings and Consuls might wear: the third was scarlet woven upon purple, and this the *Augures* only did wear. *i* This last sort was therefore called *Trabea auguralis*, the second *Trabea regia*, the third *Trabea consecrata*.

b P. Pellitar. in Cæcinna. pro *A* Cæcinna.

c Alex. Gen. dier. l. 5 c. 18

d Sig de jud. l. 3. c. 19.

e Sig. ib.

f Rosin. ant. l. 5. c. 31.

g Sig de jud l. 3. c. 19.

h Serv. Æn. l. 7.

i Alex Gen. dier. l. 1. c. 18

CAP.

CAP. 8.

De Tunica.

THose Coats which were worn under the gown, were called *Tunicæ*; and that they were worn under the gown, it appeareth by that adage, *Tunica pallio propior est*, that is, every one for himself first; or according to our English Proverb, Close sitteth my shirt, but closer sitteth my skin. *k* This *tunica* was both narrower and shorter than the gown: at first it was made without sleeves, afterward with sleeves, & by it, as well as by the gown were Citizens distinguished. The first sort of Coats was made of white cloth commonly, *l* but purfled over and imbroidred with studs of purple in manner of broad nail heads; whence it was called *Laticlavia*, or *Latus clavus*; and the persons wearing this Coat were Senators, called thence *Laticlavii*. The second sort belonged unto the *Roman* Knights, and it differed in making from the first, only that the purple studs or imbroidred works of this, were not so broad as the former: whence the Coat was called *Augusticlavia*, or *Augustus clavus*, and the persons wearing it were called *Augusticlavii*. The third sort belonged unto the populacy, or poorer sort of *Romans*: it was made without any purfled works, being called *Tunica recta*. This Coat was given together with the *virile* gown to the striplings past sixteen years old, and to new married women. And as the *recta tunica* was given with the *virile* gown; so was the *tunica clavata* given together with the *toga prætexta*; and the *laticlavia*, otherwise called *tunica palmata*, given with the *toga picta*. The fourth and last sort belonged unto women, being a long Coat reaching down unto the heels: they called it *Stolam*. Upon it they did wear an outward garment *m* called *pallium*, and sometimes *palla*, *quia palam gestabatur*. *n* *Sigonius* saith that this *palla* was a certain gown used by stage-players: how soever certain it is that not

k Sig. de jud. l. 3 c. 20.

l Salmuth. in Pancir. lib. rerum deperdit. c. de fibul. Vid. Turneb. adv. l. 1. c. 2.

m Posin. ant. l. 5 c. 35.

n Sig. de jud. l. 3. c. 19.

not only women, but men alſo and children did wear this kind of garment. Beſides the *Roman* gown and coat, there remain other parts of their apparel to be ſpoken of: ſuch are theſe which follow: *Lacerna*, which ſome do Engliſh a Cloke, but *o Feſtus* would have it to be a little kind of hood, which men ſhould wear to defend themſelves from the rain and weather: it was made that either ſide might be worn outward: and at firſt it was worn only in war, ſo that *lacernati* ſtood in oppoſition with *togati*. *p Iſidorus togatos pro urbanis, lacernatos pro militibus uſurpatos ſcribit.* Afterward, as we may conjecture, it was made longer, in manner of a cloke, for it was divers times worn upon their coats in ſtead of gowns. Another kind of garment was the *Penula*, ſo called *quaſi pendula*, we may tranſlate it a long hanging cloke. A third was called *Mitra*, which ſometimes did ſignifie a certain attire for womens heads, as a coif, or ſuch like: though this kind of attire was more properly called *Calantica*: other times it ſignified a girdle, which more properly was called *Zona*: this *Zona* chiefly ſignified a ſouldiers belt, or a marriage girdle. The ſouldiers belt was lined within in the inſide, where when they went to war they did put their money: whence *Horace* ſaith of a man that hath loſt his money, *Zonam perdidit*: and ζώσασθαι, to be girt, ſignifieth Ἔνδυναι τὰ ὅπλα, *Arma induere*, *Cæl. Rhod. l.* 22. 19. haply becauſe that part of the body which was girt, was conſecrated to *Mars*, as the forehead was to every mans particular *Genius*, the arms to *Juno*, the breſt to *Neptune*, the reins to *Venus*, the feet to *Mercury*, and the fingers to *Minerva*. *Alex. ab Alex. l.* 2. *c.* 19. Young maids when they were married were wont to have a marriage-girdle tied about their middle, which their husband at the firſt night of their marriage ſhould untie: whence *zonam ſolvere*, hath been tranſlated to deflour a Virgin. This marriage girdle in former times was called *Ceſtus*, from whence cometh the Latine word *Inceſtus*, and the Engliſh word Inceſt: which in truth

o Sig. ibi.

p Sig. ibid.

truth signifieth all kind of pollution committed by undoing, or untying this Girdle, called *Cestus*: But now in a more strict acceptation it signifieth onely that kinde of naughtiness which is committed between two near of kin; *q* and that other folly which is committed with a strangers wife, is now properly called *Adulterium*; and that which is committed with a maid or widow, *stuprum*.

q Cœl. in orat pro Milone.

The last thing touching their apparel is their shoes *r Calceamentorum genera duo fuerunt, calceus, & solea.* For the soal of the shoe, called in Latine *solea*, sometimes *crepidula*, and in *Cicero* his time *gallica*, was tied on to the bottom of the foot with leathern straps or buckles, and so worn in stead of shoes. The divers kinds of these shoes did distinguish the Roman people also. To omit the difference in colours, we may reduce the chief kinds to five heads, *Mullei*, *Uncenati*, *Perones*, *Cothurni*, *Socci*, all these sorts of shoes were made half way up the leg, as the Turkish shoes are, according to *Josephus Scaliger*; and they were either laced close to the leg, as many of our boots are now adays; or clasped with taches, or hasps. The first sort called *Mullei*, *s* from the fish *Mullus*, being like unto it in colour, were also called from their clasp *t calcei lunati*, because the clasps were made in form of a half Moon, which half-mooned clasp resembling a Roman C, signified a hundred, *u* intimating thereby that the number of the Senators (they onely being permitted to wear that kinde of shoe) were at first a full hundred and no more. Others are of opinion that they wore this mooned clasp, to put them in minde that the honour to which they had attained, was mutable and variable as the Moon. For they think that these *Lunati calcei* were not received as a token of Nobility onely at *Rome*, but in other places, to which purpose they interpret that of the Prophet *Esai. cap.* 3. *In die illo aufert Dominus ornamentum calceorum & lunulas. Cœl. Rhod. lect. ant. l.*20.*c.*28. *Uncinati calcei*, were those, which the Souldiers were wont to wear, I take them to be the same with those

r P. Fin. ant. Rom. l. 5 c. 35

s Salmut. in Pancir. lib. rerum deperdit. cap. de Fibula.

t Appositam nigræ lunam subtexit alumnæ. *Juv.*

u Salmut. in Pancirol. l. rerum deper. c. de Fibul.

thoſe which they called *Caligæ*, from which kinde of ſhoes *C. Cæſar Caligula* had his name, becauſe he was born in the Army, *Quia natus in exercitu fuerat, cognomentum calceamenti militaris* i.e. *Caligulæ ſortitus eſt. Aurel. Vict. Epit. de vita imperat.* *Perones* (as we may conjecture) were laced up the leg: for *Tertullian* making but two ſorts of ſhoes, ſaith, There were the *Mulleï*, called from their claſps *Lunati*, and the *Perones* made without ſuch half-mooned claſps, called alſo *Calceï puri*, *quoniam ex puro corio facti*; and theſe *Perones*, or *puri calceos* all the other Romans did wear, * with this note of diſtinction, that the Magiſtrates ſhoes were beſet with precious ſtones, private mens were not. Thus much concerning both the kinds and faſhion of the ſhoes may be collected out of *Roſinus* in the place above quoted. The deſcription and uſe of the *Cothurnus* and *Soccus*, may be ſeen in the Tract *De Romanis ludis*.

* Salmuth. in Pancirol. lib. rerum deperdit. c. de fibula

LIB.

LIB. III. SECT. II.

Of the Roman *Magiſtrates.*

CAP. I.

De Magiſtratibus Romanis.

WE being to treat of the *Roman* Magiſtrates, will firſt ſee what the definition of a Magiſtrate is. A Magiſtrate is he *o* who receiveth by publique authority, the charge and overſight of humane affairs belonging to the Commonwealth. Theſe *Roman* Magiſtrates were either to be choſen only out of the better ſort of *Romans*, called the *Patricii*, or elſe only out of the Commonalty. *p* The firſt were thence called *Magiſtratus patricii*, the ſecond *Magiſtratus plebeii*. The *Patricii* had power to hinder the Aſſemblies of the people; namely, their *Comitia*, by obſerving ſigns and tokens from the heavens: howbeit ſome of them had greater power, others leſs; inſomuch that ſome were called *Majores Magiſtratus, quorum habebant majora auſpicia, id eſt, q magis rata.* Others were called *minores magiſtratus, quorum habebant minora auſpicia.* Of theſe in their order.

o Sig. de jure Rom. l. 1. c. 1.

p Sig. de jure Prov. l. 1. c. 1.

q Feneſt. de Magiſt. Rom. c. 1.

CAP. 2.
De Rege & Tribuno Celerum.

IN the infancy of *Rome*, it was governed by a King unto *Tarquinius Superbus* his time, who by maintaining that shameful act of his Son towards *Lucretia*, did so incense the people, that they did not only for the present exile him, but decreed that their City should never after that be governed by a King. This King had absolute rule and government over the City. For the safety of his person he had three hundred chosen young men always to be attendant about him, much like unto our Kings Majesties Guard here in *England*, or rather his *Pensioners*. They were called *r Celeres à celeritate*, from their readiness in assistance: sometimes they were called *Trossuli*, *ſ* because they alone without the help of any foot-man did take a certain City in *Etruria* called *Trossulum*. Other times they have been called *Flexumines*, whereof as yet there hath been no certain reason rendred. Each hundred of them had their several overseer called *Centurio*: and over them all there was one general overseer, and chief commander, whom they called *Præfectum vel Tribunum Celerum*, his place being next to the King. A second sort of attendants about the King were called *Lictores à ligendo*, according to that, *Lictor colliga manus*. They were by the *Grecians* called ῥαβδοῦχοι, which we may render Virgers, from ῥάβδος a Rod, and ἔχω, to have: though sometimes ῥαβδοῦχοι do signifie the same as ῥαψῳδοί. The Rehearsers of *Homers* verses, or in general of any other *Poets*: ἀπὸ τοῦ ῥάπτειν ᾠδάς, from patching together other mens Poems. For the Reciters of *Homers* verses were wont to hold a Rod or Wand in their Hand during the time of Rehearsal. *Cœl. Rhod. c.* 29. They did somewhat resemble our Serjeants, there being in number twelve of them. Their office was to carry certain bundles of birchen-rods, with an axe wrapped up in the

r Plutarch. in Romulo.

ſ Plin. l. 33. c. 2.

middle

midst of them: the rods in *Latine* were called *Fasces*, the axe *Securis*. *t* The reason why they carried both axes and rods was to intimate the different punishment that belonged to notorious and petty malefactors. The reason why they were wrapped up together, was not only that they might thereby be more portable, but that the anger of the Magistrates might be somewhat allayed, whiles they were unbinding. Hence, because these *Fasces virgarum & securum*, did betoken honour and chiefdom in place and authority, by the figure *synecdoche*, this word hath been used to signifie honour and dignity, as *Fascibus suis abrogatis*, he being discharged of his magistracy or dignity. And *Fasces submittere* to give place, or yeild unto. *Valerius Publicola* gave occasion of the Proverb. He to insinuate himself into the hearts of the people, is said, *Submittere fasces populo quoties prodiret inconcionem*. Some interpret it, as if he were wont to command the Serjeant quite to depart out of the Assembly with their rods, which opinion *Plutarch* in *Publicola* confuteth writing thus: αυτας τε τας ῥαβδους εἰς ἐκκλησίαν παριων, ὑφῆκε τῶ δήμῳ ἠκατέλλειν. *Fasces ipsos in concionem progressus populo submisit inclinavitque*. So that the phrase signifieth properly, the not holding up of the rods, or rather the laying them down as it were at the feet of the people. *Cœl. Rhodig. l. 12. c. 7.*

t Joac. Camerarius in orat. pro Flacco. Immedicabile vulnus Ense recidendum, &c.

CAP. 3.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarii?

TOuching the election of the *Senators*, the number of them, and the distinction of them into *Senatores majorem* and *Senatores minorum gentium*, sufficient hath been delivered in the second division of the *Roman* people; as likewise in the third division hath been shewn the habit or gown by which the *Senators* were distinguished from the *Roman* Gentlemen. Here therefore it shall be sufficient for us to understand, that every solemn meet-

ing, or consistory of these *Senators* was called *Senatus*. The foreman of them (which could be no other than such, as had been either *Consul* or *Censor*, was called *Princeps Senatus*, and his opinion was always first asked. Now among those that had born those foresaid offices, it was in the *Censors* power to make whom he would fore-men. The degree of this consistory was called *Senatus-consultum*. And many times it is written with these two letters only, S. C. In like manner their preface to these decrees was commonly these two capital letters B. F. That is *Bonum factum*. *Sueton. Jul. Cæs. c.* 80. and it had the same use as, *In nomine Dei* with us. The place where this consistory was had they called *Senaculum*. None was *u* ordinarily admitted into the place of a *Senator*, before the five and twentieth year of his age: and of those that were admitted, some were allowed to ride unto the Senate-house in a Curule-chair, namely when they had born such office, which gave them right unto that chair: others which had not born such office went on foot: *x* whence these latter were called *Senatores pedarii*. They determined their acts which they called *Senatus-consulta*, sometimes by departing down their benches, and dividing themselves into sides; those which did approve that which was proposed, sided with the party who did *Referre ad senatum*, that is, propose the matter unto the Senate; the others departed unto the contrary side; or if they came not down at all, but sate still on the benches, then did they signifie by holding up, or beckning with their hands, what side they would take. Now if the major part were easie to be discerned, then they rested there, tearming that act to be decreed *y per discessionem*: and hence these & the like phrases have taken their beginning, *In illius sententiam iturus sum*, and *Manibus pedibusque discedere in alicujus sententiam*, that is, to be fully perswaded of ones opinion. Now if both companies were almost equal, so that the major part could not easily be discerned, then did they proceed to give their voices,

u Mart. Philetic. in Cic. l. 1. ep. fam. 1.

x Mart. Philetic. ibid. It. A. Gel. noct. Attic. l. 3. c. 18.

y H. bert. in Cic. l. 1. ep. fam. 2.

ces, and that which was thus determined was said to be decreed, *per singulorum sententias exquisitas*, that is, by voices. Here we may observe that those, who were favourably heard in *Senate*, *His senatus dare dicebatur*; and z likewise they were said, *Stare in Senatu*: as on the contrary they were said *lacere*, whom the *Senate* neglected or rather condemned. *a Cum mihi stanti jacens minaretur*, saith *b Tully*. If any Senator were absent without a lawful excuse, then was he fined; and for the payment thereof, he did put in a pledge, which if he did not ransome, then did the common Treasures *Cædere vel concidere pignora*, that is, strain or seize upon the pledges, making common sale thereof, in which sense those two phrases are used, namely, *capere pignora, & auferre pignora*, that is, to strain or seize upon a mans goods.

z Ascensius in Cic. l. 1. epist. fam. 4.
a Cic. orat. de arusp. respon.
b Rosin. antiq. l. 7. c. 7.

CAP. 4.
De Consulibus.

AFter the expulsion of *Tarquinius Sup.* the last *Roman* King, all the Citizens in *Rome* Assembled, and concluded that the government of the City, which before was in the hand of one alone governor, called their King, should now be divided between two: c who at first (before there was any such subordinate office as a *Pretorship*) the *Romans* called *Prætores*, *quod præirent populo*. Not long after they were called *Judices*, *à judicando*. In processe of time they were known by no other name than *Consules à consulendo populo*. d No Citizen, was ordinarily created *Consul* before the forty third year of his age. Neither might any be chosen without special dispensation, either of their absence out of *Rome*, e or in time of their triumph; which was the reason that *Julius Cæsar* was glad to forgo his triumph at that time when he was *Consul* with *Bibulus*. The signs or tokens of this *Consular* dignity were the twelve *Lictors* carrying their bundles of rods and axes f the first month before one

c Rosin. ant. Rom. l. 7. c. 9.
d Cic. orat. Phil. 5.
e Suet. Jul. Cæs. c. 18.
f Alex. Gen. dial. l. 5. c. 5.

Consul,

Consul, and the second before the other, as formerly they had done before the Kings. * Now he that had the rods carried before him in the first moneth, either he had more children than the other, for the *lex Julia* gave precedency to him who had most children, or he was elder than the other, or in time of the election he was pronounced before the other, for which respects, he was called *Consul major*, and *Consul prior*. *g* The reason why each Consul had not twelve *Lictors* alwayes, was because the tyranny of the Consuls might then seem to be doubled, and to exceed the tyranny of the Kings. Another token was a certain Chair of Estate called *Sella eburnea*, that is, an Ivory chair, so called from the matter whereof it was made; and *b* because this chair was commonly carried about in a certain Coach or Chariot, wherein the Consul did ride, hence from *Currus* which signifieth a Chariot, it is also called *Sella Curulis*; where *i* note that the word *Curulis* is sometimes used substantively, and then it signifyeth some chief Magistracy or office among the Romans. The gown by which they were distinguished from other Magistrates or private men, was a certain purple gown, which from the great embroidered works was called *Trabea*, and he that did wear it, was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. It will be worth the observation to note, that the Romans did date their Deeds and Charters in old time, by naming the year wherein their City was first founded; as to say, *Ab urbe condita*, the twentieth, thirtieth, or fortieth year, &c. But in process of time their manner of dating was by subscribing the names of their present Consuls, as to say, such a thing was determined. *L. Valerio, M. Horatio Consulibus*, such and such being Consuls: whence *Suetonius* speaking of *Julius Cæsar*, saith, he was appointed to be *Flamen Dialis*, *sequentibus Consulibus*, that is, the next year following. Yea, this was so common a date, that to know the age of their wines, they signed their vessels with the names of their Consuls, adding withal, that

* Cœl. Rhod l. 12. c. 7.

g Fenest. de Mag. Rom.

b A. Gel. l. 3. c. 18.

i Stadius in Flor. l. 1. c. 5.

that they might know the goodness of their wine, the name of the countrey whence it came, according to that of *Juven. Sat.* 5.

— *Cujus puerum, titulumque senectus*
Detexit multa veteris fuligine testæ. Turn. adv. l. 1. *c.* 1.

Those alone who had born the office of a Consul, not every one that was capable thereof, were said to be *Viri consulares.* *k* At the first those who were created Consuls remained in their office the space of a whole year, being *designati ad consulatum* upon the twenty fourth of *Octob.* *l* *Ad consulatum non inierant ante Calendas Jan.* that is, the first of *January.* The reason of this chasme, or *interim* between their designation unto their office, & their entry into it, was (as we may probably conjecture) that the Competitors might have some time to enquire *de Ambitu*, that is, whether there was no indirect and unlawful means used in their canvasing. In process of time, either by voluntary resignation, or deposition, or death, many Consuls have been chosen in the same year, and they were called *m Non ordinarii, & suffecti Consules.* At such times all their deeds were dated by the names of the two first Consuls which began the year: whence those two first, and likewise all those that continued in their office the whole year, was called *n Consules Honorarii*, and *Consules Ordinarii.*

k Tustinus in orat. Cic. pro Cælio.

l P. Ramus in orat. Cic. 1.

m F. Sylv. in Cic. orat. pro Mur.

n Rosin. ant. Rom. l. 7. c. 9.

CAP. 5.
De Censoribus.

THe Consuls finding themselves incumbred with so many businesses of a different nature, did by consent of the Senate chuse two peculiar Officers, called *o Censores à censendo*, because they sessed and valued every mans estate, registring their names, and placing them in a fit century. For it did concern the Romans to know the number, and likewise the wealth of the people, to the end they might be informed of their own strength,

o Fenest. de Mag. Rom. c. 17.

and

and so shape their course accordingly, either in undertaking wars, transplanting Colonies, or in making provision of victuals in time of peace. A second and main part of their office was in reforming manners, to which end they had power to enquire into every mans life. This part of their authority was noted out unto us by this phrase, being called *Virgula Censoria*. If any one had played the ill husband, & neglected his Farm, or left his vine untrimmed, the Censors took notice thereof. They did *Senatu & Tribu movere*, i. e. they did depose Senators and pull down men from a more honorable Tribe, to a less honorable. *Diminutio maxima* was the loss of ones Tribe, City and Freedom. These Censors were reputed of the best rank of Magistrates in *Rome*; they remained in their office an whole five years space ordinarily; I say ordinarily, because *r* through the abuse of their place, the office had been made sometimes annual. *s* That five years space the Romans did call *Lustrum*, because they did once in every five years revolution *Lustrare exercitum Romanum*, by sacrifice purge the Roman Army. Hence we say *duo lustra*, ten years, *tria lustra*, 15. years, &c. The performance of this *Lustration* belonged also unto the Censors: for after the Censors had performed the one part of their office, in registring the just valuation of every Citizens estate, *t* they did lead a Sow, a Ram, and a Bull three times about the Army, and in the end sacrificed them unto *Mars*: and thus to purge an Army, is, *condere lustrum*; though sometimes *condere lustrum* doth signifie, to muster an army. These sacrifices, as likewise all others of the like nature, that is, wherein there was a Sow, a Ram, and a Bull sacrificed, were termed sometimes *u Suo-vetauralia*, sometimes *Solitauralia*, sometimes *x Taurilia*. Moreover it did belong unto these Censors to farm out the tributes, Imposts, Tollage, &c. *y* At the five years end, the acts of both their Censors were registred upon books of record, which records were laid up in a certain religious house dedicated

r Fenest. de Rom. Mag. c. 7.

s Pomp. Lat. de Rom Magist. c. de Censor.

t Pancirol. l. rerum depar. c. de cibi capiendo modo.

u Alex. Gen. dict. l. 5. c. 27.

x Pomp Læt. de mag Rom. c. de Censor.

y Pancirol l. rerum deperdit. c. de cibi capiendi modo.

to

to the *Nymphs.* Whence *z Cicero* speaking of *Clodius*, saith, *Qui adem Nympharum incendit, ut memoriam publicam incensis tabulis publicis impressam aboleret.*

z Cic. pro Milon.

CAP. 6.

De Prætoribus.

THe Consuls by reason of their many troubles in war, having no time to administer justice unto the Roman people, did for the better help therein, create two new Officers for the executing of justice, the one to examine ad judge of matters within the City, between Citizen and Citizen; the other to decide Controversies between forreigners. The first they *a* called *Prætorem urbanum*, and *Prætorem majorem*; the other *Prætorem peregrinum*, & *Prætorem minorem*; we may English them Lord Chief Justice. Where we must note, that at the first there was only the *Prætor urbanus*, untill the cases and suits in law became so many, that one was not sufficient to hear them all, *b* yea at last the number of the *Prætors* came to 16. namely, when those two were added for the providing of corn and grain; whence they were called *Prætores Cereales*; *c* nay there were at last 18. *Prætors*, there being two others added to judge of controversies touching feoffments of trust, called thence *Prætores fidei commissarii*. *d Causarum duo genera sunt, aliæ privatæ, aliæ publicæ; has criminosas, illas civiles appellant.* In those cases which were private, that is, *e* touching equity and uprightness of any act, or the restitution of any money or goods unlawfully detained from the right owner, it belonged principally unto the *f* two first *Prætors* to judge; *g* but under them unto the *Centum-viri*, who oftentimes are called by *Tully*, *Recuperatores*, and *Judices hastæ*; the Court, *Hasta centum-viralis*, because one of the marks and special ensigns was a spear erected up in the place the Court was kept. Those cases which were publick or criminal, as Treason, Murther, Buying of voices in the

a Pighius æquip. comp.

b Alex. Gen. dier. l. 2. c. 15.

c Fenest. de Mag. Rom.

d F. Syvl. in orat. pro Mur.

e I. Saxon. in Cic. orat. pro S. Rosc.

f Rosin. ant. l. 7. c. 11.

g Saxonius ib.

canvasing of Offices, &c. were called also *causa capitalis* and *capitis dimicatio*, that is, *b* such cases wherein if the party accused had been found guilty, he was *capite damnatus*: by which phrase we must not understand always *Ultimum supplicium, sed aliquando exilium, quo scilicet caput*, that is, *cives eximitur à civitate*. *i* These cases at the first were heard by the Kings and Consuls; afterward by certain appointed thereunto by the people, being called from their inquisition *quæsitores parricidii*. In continuance of time the examination and hearing of these publick cases was turned over unto certain Magistrates, who because they were to continue their office a full and entire year (whereas the others had their authority no longer than they sate in Judgement) were thence for distinction sake called *Prætores Quæsitores*, and the cases were termed *Quæstiones perpetuæ*: *k* because in these cases there was one set-form of giving judgement perpetually to remain; whereas in those private or civil causes the *Prætor* did commonly every year change the form of giving judgement by hanging up new edicts. *l* Here we must note, that these *Quæsitores parricidarum*, otherwise called *Prætores Quæsitores*, had not the examination of all publick cases, but sometimes upon extraordinarry occasions either the Consuls, the Senate, or the people themselves would give judgement. Now as those former *Prætors* had a spear erected up, whereby their Court for private causes was known; so had these *Quæsitores* a sword hanged out in token of their Court. *m* *Prætorum insignia duo fuere, hasta & gladius, illa ad jurisdictionem, hic ad quæstionem significandam*. The officers which did attend these *Prætors* were *Scribæ*, i. e. certain Notaries much resembling the Clerks of our Assises, their office being to write according as the *Prætors* or chief Justices had bid them, taking their name à *scribendo*. The second sort were called *Accensi ab acciendo*, from summoning, because they were to summon men to their appearance. They much resembled our Bayliffs errant. The third sort were Li-

b F. Sylv. in orat. pro Mur.

i Rosin. ant. l. 9. c. 18.

k Rosin. ant. l. 7. c. 11.

l Rosin. ant. l. 6. c. 18.

m Sig. de jud. l. 1. c. 7.

ctores

Horet; of which before. *n* The authority of the Urbane *Prætor* was so increased in time, yea his honour was such, that whatsoever he commanded, it had the name of *Jus honorarium*. *o* Others are of opinion, that only the *Prætors* edict was that *Jus honorarium*; *p* the *Prator Urbanus* being wont at the entrance into his office, to collect a set form of administration of Justice out of the former laws, and several edicts of former *Prætors*, according unto which he would administer Justice all the year following: and lest the people might be ignorant of the Contents thereof, he caused it to be hanged up to the publick view. This form of Justice was termed *Edictum, ab edicendo*, i. e. *q imperando*; because thereby he did command, or forbid something to be done. Whence *Pellitarius* in the place now quoted, doth translate *Consulum edicta*, Mandatory letters, that it might be distinguished from other Magistrates edicts. It was commonly called *Prætoris edictum*. And as *Pighius* observeth in the place above quoted, it was called *Edictum perpetuum*, not absolutely because the vertue thereof was perpetual, (for that expired together with the *Prætors* office, and therefore *r Tully* calleth it *Legem annuam*) but in respect of other edicts made in the middle of the year upon extraordinary and unexpected occasions, which latter sort of edicts *s Tully* calleth *Peculiaria & nova edicta*. Afterward, *t Salvius Julianus* collected an Edict out of all the old Edicts of the former *Prætors*, wherein almost all the whole Civil Law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prætors* ever after did administer Justice according to that Edict, by the appointment of *Hadrianus* being then Emperor. The Edict being given out, the administration of Justice consisted in the use of one of those three words, *Do, Dico, & Addico*, i. e. *u Dat actionem*, *Dicit jus*, *Addicit tam res quam homines*. That is, he is said *Dare*, when he granteth out an action or writ against a man; *Dicere*, when he passeth judgement on him; and *Addicere*, when he in

n Fenest de Rom. Mag. cap. 19.

o P. Pellit. in Cic. orat. pro A. Cœcina. *p* High. Æq. per. cum.

q P. Pellit. in Cic. orat. pro A. Cœcina.

r Cic. in Ver.

s Cic. in Ver. 5 *t* Sig. de jur. l. 1. c. 6.

u I. Cæsar. Cic. orat. pro Flacco.

the Court doth see and allow the delivery of the thing or the person on which judgement is passed. The Form of Addiction was thus: After judgement had been pronounced in the Court, the party which prevailed, laid his hand on the thing or the person, against which sentence was pronounced, using this form of words, *Hunc ego hominem, sive hanc rem, ex jure Quiritium meam esse aio.* Then immediately did the Lord chief Justice *Addicere*, that is, approve the challenge, and grant a present possession. *Ant. in Fast. l.* 1. For explanation whereof we must know, that this word *Addico*, is sometimes *verbum Augurale*, sometime *Forense*, sometimes a term of Art belonging unto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approved by the Gods: the opposite hereunto is *Abdicere*. Sometimes this verb *Addico* is a term of Law, signifying as much as to deliver up into ones hands, or into ones possession: whence we do not only call those goods that are delivered by the *Prætor* unto the right owner *bona addicta*, but those debtors also which are delivered up by the *Prætor* unto their creditors to work out their debt, are termed *servi addicti*. Yea moreover, because in all port-sales it was necessary that the *Prætor* should *Addicere bona*, deliver up the goods sold, hence doth this word often signifie to sell, as *Addicere sanguinem alicujus*, to take money to kill a man, to sell a mans life. Touching the reason of their name, they were called *Prætores a præcundo, quoniam jure præibant*. And y those alone were properly termed *viri Prætorii* which had born this office, not they which were capable thereof: In the same sense we say *Viri Censorii*, and *Viri Ædilitii*, &c.

a M. Toxita in orat. pro Pub. Quint.

y Fr. Maturantius in Philip. 13.

CAP.

CAP. 7.

De Imperatoribus, Cæsaribus, sive Augustis.

WHen *C. Julius Cæsar* had overcome *Pompey* his Sons in *Spain*, at his return to *Rome*, the Senate welcomed him with new invented Titles of singular honour, styling him *Pater Patriæ*, *Consul in decennium*, *Dictator in perpetuum*, *Sacrosanctus*, and *Imperator*; all which titles were afterward conferred upon *Octavius Cæsar*; and all the Emperors succeeding him desired to be called *Imperatores & Cæsares* from him. Where we must understand, that this name *Imperator* was not altogether unknown before; for by that name the Roman Souldiers were wont (even at that time) to salute their Lord General after some special conquest. z These Roman Emperors were afterward called also *Augusti* from *Octavius Cæsar*, whom when the Senate studied to honour with some noble Title, some were of the mind that he should be called *Romulus*, because he was in a manner a second Founder of the City: but it was at length decreed by the advice of *Munitius Planeus*, that he should be styled by the name of *Augustus*, which we may English *Soveraign*: And they counted this name of more reverence and majesty than that former name of *Romulus*, because all consecrated and hallowed places were called *Loca Augusta*. The authority of these Emperors was very great, even as great as the Kings in former times.

z Sex. Rufus l. 6.

CAP. 8.

De principibus juventutis, Cæsaribus, & nobilissimis Cæsaribus.

A Custom *a* was received among the Roman Emperors in their life time, to nominate him whom they would have to succeed them in their Empire; and him they called *Princeps juventutis*, *Cæsar*, *& Nobilissimus Cæsar*.

a Rosin. ant. l. 7. c. 3.

Cæsar. The like custom was practised by *Charls* the fifth Emperor of *Germany*, and so hath been continued by his Successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so far invested in the Title to the Empire by the means of the present Emperor, that upon the death, resignation, or deposition of the then being Emperor, he immediately should succeed.

CAP. 9.
De Præfecto Urbis.

Romulus for the better Government of the City appointed a certain Officer called *Urbis Præfectus*, to have the hearing of all matters or causes between the Master and the Servant, between Orphans and their Overseers, between the Buyer and the Seller, *&c.* Afterward in time of the Roman Emperors, this *Urbis Præfectus* did assume unto himself such authority, that he would examine and have the hearing of all Causes of what nature soever, if they were *Intra centissimum lapidem*, within an hundred miles of *Rome*: (for *b Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark-stone was erected.) In the absence of the King or Consuls, he had all authority which belonged unto them resigned unto him. I am not ignorant, that some do make this latter kind of Prefecture, or Lieutenantship, a different Office from the former; but I should rather think it to be one and the same, only his authority to be more enlarged in the Kings absence: and of this opinion do I find *Fenestella*, *Alexand. Neopl.* and *c Sigonius*.

b Despauterius in sua syntaxi.

c Sig. de jur. Rom. l. 1. c. 20

CAP.

CAP. 10.
De Decem-viris, legibus scribendis.

FOr the better administration of Justice, the *d* Romans appointed three men, namely, *e Sp. Posthumius, Ser. Sulpitius, A. Manlius*, to go to *Athens*, and other Grecian Cities, there to peruse the Grecian Laws: to the intent that at their return, both a supply might be made of those Laws that were wanting in *Rome*, and the other that were faulty might thereby be rectified and amended. At the return of those three men, the Consuls were deposed, and both their Authority and Ensigns given unto *f* ten men newly erected for the Government of the State, and were thence called *Decemviri*. The first elected into this *Decem-virat*, were *Ap. Claudius, T. Genutius, P. Sextus, Sp. Veturius, C. Julius, A. Manlius, Ser. Sulpitius, P. Curiatius, T. Romul. Sp. Posthumius*: all of them such as had born the Office of a Consul. The Laws which they brought from *Athens* were written at first in ten Tables of Brass: afterwards two other Tables were added, at which times those laws began to be known and distinguished from others by the name of *Leges 12. Tabularum*. And according to those Laws Justice ever after was administred to the Roman people, at first by these ten men appointed thereunto, whose authority was as large even as the Kings and Consuls in old time, only it was annual. One of them only had the Ensigns of honour carried before him, one alone had the authority of convocating the Senate, confirming their Decrees, and the discharge of all State-businesses; *g* the other did little differ from private men in their habit, only when the first had ruled a set time, the others succeeded by turns. This kind of Government did not continue long in *Rome*; for in the third year all their power was abrogated, because of their Tyranny and Oppression used by them towards the Roman people.

d Fest. de Mag. Rom. c. 14.
e Rosin. ant. l. 7. c. 9.
f Liv. Reg. Leg.
g Rosin. ant. Rom. l. 7. c. 19.

CAP.

CAP. 11.
De Interregia potestate.

f Dion. Halic. l. 2.

AFter the death of *Romulus*, *f* the Senators divided themselves into several Companies, called *Decuriæ*, committing the Government of the Kingdom to that *Decury*, that is, to those ten men, upon whom the lot fell, calling them the *Interreges*. Where we must know, that these ten did not rule all together, but each man ruled for the space of five dayes, whence *g* *Rosinus* calleth this Magistracy, *Magistratum Quinquedianum*. After that five dayes Government had passed through the first, then did they go to lots to have a second *Decury* chosen, and so a third, &c. This office of an *Interrex* remained even in the Consuls time, so that if by some extraordinary occasion the Consuls could not be created, *b* then they chose one, to whom alone they committed the whole Government of the Kingdom, and him they called *Interregem*.

g Rosin ant. l. 5. c. 12.

b Alex. Gendier. l. 5. c. 6.

CAP. 12.
De Dictatore.

WHensoever the Romans found themselves encumbred with dangerous Wars, or any other eminent dangers, they presently chose a *Dictator*, to whom alone was committed the Authority and Rule of the whole Kingdom, differing from a King only in respect of his name, and the continuance of his Office. Touching his name he was so called, *quoniam dictis ejus parebat populus*. His Office continued but six moneths, and at the expiration thereof, if need required, he was chosen again for another six moneths. He was also called *i Populi Magister*, inasmuch as none could make their appeal from him unto the people. Assoon as he was established in his office, he chose a subordinate Officer,

i Pighius in Annal.

ficer whom he *k Equitum Magister*: his authority much resembled his, whom they called *Urbi Præfectum*: for as the *Præfectus urbi* in the absence of the King, so this *Magister equitum* in absence of the *Dictator* had full and uncontroleable authority of doing what he would. *k* Stadius in Flor. l. 1. c. 11.

CAP. 13.
De Tribunis militum.

THese *l* military *Tribunes* were of two sorts. The one had all power and authority, which belonged unto the *Consuls*; and thence were called *Tribuni militum consulari potestate*. The occasion of them was this: The protectors of the commons called *Tribuni plebis*, did earnestly labour that the commonalty might be made as capable of the consular dignity as the Nobility: This was followed so hot, that in the end, though the Nobility would not grant them way unto that dignity under the name of *Consuls*; yet in effect they would grant it them. Namely the *Consuls* should be deposed, & in their stead other Magistrates should be chosen; part out of the Nobility, part out of the commonalty, who though they were not called *Consuls*, but *Tribuni*, yet were they of *Consular* authority: by which they were distinguished from the other sort of Military *Tribunes*, who had power & authority only in matters military, and were known by the name of *Tribuni militum*, without any addition. *n* Sometimes there was one of these three words prefixed, *Rutuli* or *Rufuli*, *Suffecti* and *comitiati*; not thereby to intimate unto us any distinction of office or place, but to signifie their manner of election. For if they were chosen by the *Consules*, then were they called *Tribuni Rutuli*, or *Rufuli*, because they had their authority confirmed unto them by vertue of an Act or Law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the Souldiers themselves in their Camp, then were they called *Tribuni suffecti*, that is, *Tribunes* substituted or put

l Rosin. ant. l. 7. c. 20.

n Alex. Gen. d. c. l. 6. c. 13.

in the place of another. Whence we may conjecture, that the Souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by ſome violent or unnatural death. The laſt ſort called *Comitiati*, were ſo called becauſe they were choſen by the *Roman* Aſſemblies, called in Latine *Comitia*. They were termed *Tribuni*, becauſe at the firſt inſtitution of them (whether we underſtand the Conſular *Tribunes*, or this latter ſort) there were but three of each. In proceſs of time notwithſtanding I find the number not only of thoſe *Conſular Tribunes*, *o* but of thoſe other alſo to have been encreaſed to ſix, accordingly as the thouſands in a legion were multplied. Theſe latter ſort of *Tribunes*, in reſpect of their Military Diſcipline, which was to ſee the Souldiers being faulty to be puniſhed, we may Engliſh *Knights Martial*: In reſpect that their authority was over foot-men only, we may Engliſh them *Serjeants Major*: only this difference there was, to every thouſand of foot-men in any legion, there were as many Military *Tribunes* under their chief Commander called *Imperator*. But in our Engliſh Armies there is but one *Serjeant Major*, who alone under the Lord General hath Command over all the Foot-men, be there never ſo many thouſands.

o Roſin. ant. l. 7. c. 20.

CAP. 14.

De Triumviris Reipub. conſtituendo.

THis tyranny of the *Triumviratus* began by a conſpiration between *Auguſtus Cæſar*, *Antonius*, and *Lepidus*. For theſe three under the pretence of revenging *Julius Cæſar* his death, obtained chief power and authority for the ſpace of five years throughout *Rome*, *p* pretending that they would ſettle the Commonwealth, which at that time by reaſon of *Jul. Cæſars* death was much out of order. Thoſe five years being expired, they refuſed to reſign their authority, exerciſing exceſſive cruelty

p Veneſt. de mag. Rom. c. 21.

ty towards all the *Romans* of what degree soever. *q* This kind of government remained but ten years, neither ever were there any other than those three above named. They had power to enact any New Law, to reverse any former Act, without the consent of the *Senate*, or *Commons*. They might proscribe and banish any *Roman* at their pleasure, and as often as we read *de Trium viratu* simply without any adjunction, or *de Triumviratu Senatus legendi*, we are to understand it of this, though some upon unsure grounds do dis-joyn them.

q Suet. Oct. Aug. c. 27.

CAP. 15.

De Quæstoribus ærarii.

THis office of the *Quæstors* seemeth not unlike to a publique Treasurers, which collecteth the subsidies, customs, money, yearly revenues, and all other payments belonging to any State or Corporation. And hence *r quoniam publicæ pecuniæ quærendæ præpositi erant*, they took their name *Quæstores*. Sometimes they are called *Quæstors Urbani*, to distinguish them from the Provincial *Quæstors*, which bare office in the Roman Provinces: sometimes they are called *Quæstores ærarii*, to distinguish them from those that were called *Quæstores parricidii*, or *rerum capitalium*, of which you may see more in the tract *de Prætoribus*. *f* Lastly, they were called *Quæstores ærarii*, to distinguish them from the *Tribuni ærarii*, i. e. those Martial Treasurers, or Clerkes of the Band which did receive the Souldiers pay from these City-treasurers, and so pay it to the Souldiers. The office of those City-treasurers (then being at first but two) was to receive all the City-accounts; to disburse at all occasions of publique expences; to take an oath of him that the Souldiers had saluted by the name of *Imperator*, that he had truly informed the *Senate* both of the number of enemies slain, as also

r Feneſt. de Mag. Rom. c. 3

f Sig. de jure Rom. l. 2. c. 8.

of the number of Citizens loſt; otherwiſe he might barr the Emperor of his triumph. Moreover whatſoever ſpoils were taken in the War, they were delivered up unto theſe *City-quæſtors*, & they ſelling them, laid up the money in the great Treaſure-houſe called *Ædes Saturni*.

CAP. 16.
De Tribunis Plebis.

THe *t Roman* commonalty finding themſelves oppreſſed by the wealthier ſort, departed unto the *Aventine* mount; threatning the *Roman* Nobility, that they would forſake their City, and never again adventure themſelves in War for the defence thereof, unleſs they did find ſome relaxe and eaſement, from thoſe exceſſive payments of uſe and intereſt unto their Creditours: yea, beſides the remiſſion of their preſent debts, before they would return unto their City again, they would have certain Magiſtrates choſen, which ſhould be *u Sacroſancti*, that is, ſuch as might not be hurt or violently uſed, not ſo much as in words: & if any had violated the law, whereby they were made *Sacro-ſancti*, then was he accounted *homo ſacer*, that is, an excommunicate perſon, or ſuch an one whoſe ſoul ſhould be vowed unto ſome God; inſomuch that if any after had killed him, he ſhould not be liable unto judgement: *x quoniam illius anima diis devota amplius humani commercii non ſit.* To theſe *y* Magiſtrates the protection of the Commons was committed, who becauſe they were at firſt choſen out of the *Military Tribunes*, therefore did they always retain the name of *Tribunes*, being called, that they might be diſtinguiſhed from the others, *Tribuni plebis*, Protectors of the Commons. At the firſt inſtitution of them they were in number but two, as *z* ſome have thought: *a* Others ſay five, afterward (as it is yeilded by all Writers) they increaſed unto ten. Their authority at firſt conſiſted chiefly in this, that they had power to hinder any proceedings

t Roſin. Epitetum, Rom.

u Roſin. ant. l. 7. c. 25.

x Alex. Genial. dier. l. 6. c. 14.

y Roſin. ant. l. 7. c. 23.

z Pighius in ſuo Tirannifug.

a Pomp. Læt.

ceedings in the *Senate*, which they thought might prove prejudicial unto the Commons, ſo that they had not authority to enact any new Decrees, as afterward by abuſing their authority they did. *b Sed eorum autoritas magis in intercedendo, quàm jubendo.* And hence was it that in old time theſe Protectours of the Commons were not permitted to come into the *Senate*, but *c* they ſate without at the door, whither whatſoever was determined within the *Senate* was ſent unto them, to be peruſed by them, and if they did approve it, then did they ſubſcribe a great roman T, being the firſt letter of this word *Tribuni*. *d* The houſes of theſe *Tribunes* ſtood open night and day, as a common refuge or place of ſuccour for all that would come; *e* neither was it lawful for them to be abſent out of the Town one whole day throughout the year.

b Stadius in Flor. l. 3. c. 2.

c Pigh. in ſuo Tirannifug.

d Roſin. ant. Rom. l. 7. c. 23

e Pigh. in ſuo Tyrannifug.

CAP. 17.

De Ædilibus, & Præfecto annonæ.

WE may read of three ſorts of *Roman* Magiſtrates called *Ædiles*, the two firſt had their names *ab ædibus curandis*, having in their charge to repair both Temple and private dwelling-houſes which belonged unto the City. The firſt ſort were called *Ædiles curules*, *à ſella curuli*, from the Chair of State, wherein it was permitted them to ride, and theſe were choſen *f* out of the *Senators*. The ſecond ſort were called *Ædiles Plebii*, and they were added unto the former, at the earneſt ſuit of the Commons, they being to be choſen out of them. Where we muſt note that they were not ſo added, that both ſorts ſhould rule at one and the ſelf ſame time, *g* but that the *Curules* ſhould rule the one year, and the *Plebii* the other. To theſe *Ædiles* it did belong, beſide the reparation of Temples and private houſes, to look unto the weights and meaſures in common ſale: for they had power the examine *Actiones redhibitorias*, that

f Philer. in l. 2. Cic. epiſt. fam. 10.

g Alex. Gen. dier. l. 4. c. 4.

that is, such actions, by vertue of which he that had sold any corrupt or sophisticated wares, was constrained to take them again. Moreover they had the charge of the publick conduit or water-conveyances, of provision for solemn playes, *&c.* Of the third sort there were also two, who were in a manner Clerks of the Market: *h* for unto them belonged the looking unto the victuals sold in the Market, and corn: Whence they were called by them *Ædiles Cereales*, & *i* by the Greeks σιτωνίαι. This office, for ought that can be collected out of those that treat of it, differeth but little from his, whom the Romans called *Annonæ præfectum*; only this, the *Ædiles Cereales* were *Magistratus ordinarii*; the *Prefectus*, *extraordinarius*, namely, *k* such as was chosen only in time of extraordinary dearths: he having for that time larger authority than those ordinary Clerks of the Market. For as it appeareth by *Rosinus* in the place now quoted, this *Prefectus* had power of himself to examine all such cases or questions as should arise touching the dearth: as suppose the hoarding of corn, fore-stalling the Market, *&c.*

h Alex. Gen. ibid.

i Pighius in suo Tyran.

k Rosin. ant. l. 7. c. 38.

CAP. 18.
De Triumviris.

BEside that *Triumviratus Reip. constituendæ*, of which we spake before, there were divers kinds of *Triumviratus*, namely, *Triumviri capitales*, three high Sheriffs, who had the charge of Prisons, and were to see malefactors punished. For which purpose eight *Lictors* did attend them. There was also *l Triumviri Minarii*, three men, we may term them Bankers, who had authority to pay out of the common Treasury poor mens debts. Sometimes there were appointed five to this office, whence they were also called *m Quinque viri Mensarii*, both being called *Mensarii* from *Mensa*, a Table whereon they told their money. Another sort of *Triumviri* there were appointed to press Souldiers, whence they were

l Alex. Gen. dier. l. 3. c. 16.

m I. Camer. in orat. Cic. pro Flacco.

were called *Triumviri conquirendi juvenes idoneos ad arma ferenda.* We read also of certain *Triumviri*, which were elected as chief Captains to guide and conduct the people in transplanting Colonies, and thence were they named *Triumviri coloniæ deducendæ*; but sometimes for this purpose they elected seven, ten, or twenty, and so named them *Quinq; viri, Septem viri, Decem viri,* & *Viginti viri Coloniæ deducendæ.* Three other sorts of *Triumviri* remain, which were officers of small account, as the *Triumviri monetales*, three Masters of the Mint, who thence were called *Triumviri A. A. Æ. F. F.* that is, *Auro, Argento, Ære, Flando, Feriundo*, for they had the charge of coining the money. 2. *Triumviri valetudinis*, three Pest-men, which were to oversee those that lay infected with any contagious sickness. Thirdly *n Triumviri nocturni*, three Bell-men, which were to walk the Town at night, and to give notice of fire.

n Alex. Gen. dier. l. 3. c. 16.

CAP. 19.
De Prefectis Ærarii.

Augustus Cæsar desiring for the better safety of the City to maintain many bands of Souldiers, which should always be in readiness for the defence of the City, desired of the City a yearly subsidy for the maintenance of those Souldiers: but being denyed it, he built a certain Treasure-house which he called *Ærarium militare*, whereinto he cast his money for himself and *Tiberius*; and promised to do so every year. Afterward when he saw the Treasury not to be inriched enough, either by that money which himself bestowed, or by the contributions of others, he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) should fall unto this Treasury. For the charge and custody hereof he appointed three of those Souldiers which alwayes attended about him for the safeguard of his person, calling them *Prefectos Ærarii.*

CAP.

CAP. 20.
De Præfecto Prætorio.

ALL Captains and Governors to whom the Rule of any Army belonged, were in ancient time called *o Prætores*: This word *Pretor* signifying then three chief Officers among the Romans; first a Consul, secondly a L. chief Justice, thirdly a L. General in war; all of them being called *p Pretores*, *quasi Preitores*, *quoniam jure & exercitu preibant*. Answerable to which threefold acception, this word *Pretorium* hath three several significations; sometimes it signifieth a Princes palace or Manor-house, sometimes a great hall or place where Judgement was wont to be given, and lastly, the L. General his pavilion in the Camp; *q* from which last signification it is, that those Souldiers that gave attendance about that pavilion for the guard of their Captains person, are sometimes called *Milites Pretoriani*, sometimes *Cohors Pretoria*. *r* And he to whom the oversight of the Souldiers was committed, was thence called *Pretorio prefectus*.

o Pancir. in notitiam imper. orient. c. 5.

p Pighius in Æquiper. compos.

q Asconius in Verrin.

r Fr. Sylv. in Catil. 2.

CAP. 21.
De Advocato fisci.

FOr the right understanding of this office, we must first note a difference between these two words, *Ærarium* and *Fiscum*: *Ærarium* was a common Treasury belonging unto an whole State or Corporation, whence all publick and common expences are to be supplied. *Fiscus* was the Kings or Emperors private coffers: it may be Englished the *Kings Exchequer*: The keeper thereof was called *Advocatus Fisci*. There are many other petty offices within the City, which I have purposely omitted, because there is but seldom mention of them in old Authors, and as often as they are mentioned, their names do explain their office.

CAP.

CAP. 22.

De præcipuis Magistratibus provincialibus.

OVer the Provinces at first ruled certain Magistrates sent from *Rome*, by Commission from the Roman Senate, called *Prætores*, whose office was to administer Justice unto the Provincial inhabitants, yea, and if occasion served, to make war also upon their enemy; & this was the reason that the number of the Prætors did so increase always, namely, according as the number of Provinces did encrease. The wars & tumults in the Provinces sometimes were so great, that the Prætor was not sufficient both to manage war and execute Justice: whereupon the Senate thought fit to send another Magistrate into the Provinces, whom they called a Consul, because properly the managing of war belonged unto the Consul, so that there were at first two ordinary Provincial Magistrates, a Consul to manage war, & a Prætor or Lord Chief Justice to sit in Judgment. And if these two by a second grant from the Senate, did continue in their office above the space of a year, then were they called *Proconsules & Proprætores*. But in process of time this custom was altered; for then none could be Proconsuls, but those alone who had been Consuls in *Rome*: neither could any Proprætors, which had not been Prætors at *Rome*. Their manner being, that the next year after the expiration of their offices in *Rome*, they should depart into some certain province, to bear the same offices again, being not called *Consules* or *Prætores* as before, but *ſ Proconsules* and *Proprætores*: and for this cause alwayes so soon as the Consuls had been created, the Senate did appoint certain Provinces for the Consuls, which being appointed, the Consuls did either agree between themselves, who should go to the one, who to the other, and that was termed *comparære provincias*; or else they did decide the question by lots, and that was termed *sortiri provin-*

ſ Alex. Gen. dier. l. 3. c. 3.

cias : howbeit, ſometimes the Senate did interpoſe their authority, and diſpoſe the ſame. Under the Emperors the Governors of ſome Provinces were appointed by the Senate and the people, and thoſe were called Pro-
t Camer. pro L. Hacer. *conſules*, and the Provinces, t *Provinciæ Conſulares*: others were appointed by the Emperors, and they were called *Proprætores*, and the Provinces *Prætoriæ Provinciæ*. For all this which hath been noted touching the Provincial Magiſtrates, it is almoſt *verbatim* tranſlated
u Roſin ant. l. 10 c. 21. out of u *Roſinus*. To which we add this, namely, that every Proconſul and Proprætor did uſually chuſe a Lieutenant, ſuch a one as ſhould be aſſiſtant unto him in matters of Government, whom they called *Legatum*, ſo
x Pomp. Lætus de Mag. Rom. that this word x *Legatus* ſignifieth three ſeveral Magiſtrates among the Romans : two whereof may be proved
y Sig. de jur. prov. l. 2, c. 2. out of y *Sigonius* : firſt, that it ſignified ſuch a Lieutenant, or Lord Deputy under a Proconſul, or Proprætor in a Province. 2. That it ſignified ſuch a one as is imployed in the delivery of a Meſſage or Embaſſage from one Prince or State to another: we commonly call them Embaſſadors. Laſtly, it ſignified a Lieutenant or chief Captain in war, whoſe place was next under the L. General. His Office at the firſt inſtitution, was not ſo much to rule or command, as to aſſiſt the Lord General in counſel; whence *Polibius* commonly joyneth theſe two together πρεσβευτὰς καὶ συμβούλους that is, *Legatos & Conſiliarios*, that the latter word might expound the former. *Lipſ. de mil. Rom. l. 2. dial.* 11. Moreover, every Proconſul and Proprætor had with them certain Treaſurers, called *Quæſtores provinciales* : Theſe Provincial Treaſurers
a Sig. de jur. prov. l. 2. c. 3 a were choſen by the Roman people commonly, namely, ſuch a number as the number of Provinces did require. After the election, they between themſelves did caſt lots who ſhould go unto the one, who unto the other Provinces: b ſometimes extraordinarily by vertue of ſpecial act or decree, as this or that ſpecial man hath obtain'd this or
b Sig. ibid. that Province without any lottery. By the way we muſt

note,

note, that all Provincial Quæstors could not be called Proquestors, as all Provincial Consuls and Prætors were called *Proconsules* and *Proprætores*: c For these only were called *Proquæstores*, which did succeed those Provincial *Quæstors*, when they did either die in their Office, or depart out of the Province, no successor being expected from *Rome*, at which time it was lawful for the Proconsul or Proprætor, to choose his Proquæstor. Moreover, there were beside these *Legati & Quæstores*, d other Military Officers, such as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Decuriones*, together with other inferior Officers, as their Secretaries, Bayliffs, Cryers, Serjeants, and such like.

c Rosin. ant. Rom. l. 7. c. 45.

d Sig. de Jur. prov. l. 2 c. 2.

LIB. III. SECT. III.

Of the Roman *Punishments.*

CAP. I.

Supplicia, Mulcta, Lex, Ateria, Tarpeia, Ego ei unum novem mulctam dico, &c.

TOuching the Military Punishments, which belonged to the Military Discipline; it shall be treated of in its proper place. Here only of the City Discipline, and the usual Punishments exercised therein, which we may divide thus. Punishments publickly inflicted on malefactors, are either *Pecuniary mulcts*, or *corporal punishments:* The *Pecuniary mulcts* were of two sorts; either an appointed sum of money was required of the party guilty, and then it was called *Mulcta*; or his whole estate was seised on, and then it was termed a *Confiscation* of his goods. The *Mulct* was twofold, the one termed *Mulcta suprema*, the other *Mulcta minima*. Of both these *a Gellius* writeth thus, *Suprema mulcta erat duarum ovium, & tregenta bovum, pro copia scilicet boum, & penuria ovium; sed cum ejusmodi mulcta pecoris armentique a magistratibus dicta erat, adigebanter boves ovesque, alias pretii parvi, alias majoris, eaq; res faciebat inæqualem mulctæ punitionem;*

a Gell. l. 11.

punitionem : idcirco postea lege Ateria constituti sunt in ovas singulis æris deni, in boves æris centeni : Minima vero mulcta fuit ovis unius. Moreover as he observeth in the same place, whensoever the Magistrate did set a fine or mulct upon the offenders head, he used the word *Ovis* in the Masculine gender, as *Ego ei unum ovem mulctam dico, &c.* The Law which *Gellius* calleth *Ateriam legem*, *b Festus* calleth *legem Tarpeiam*, because *Aterius* enacted it when he was Collegue or fellow-Consul with *Tarpeius*. Likewise we may take notice of the clemency used in those times. It was provided by the law, that seeing there was a greater plenty of Oxen than of Sheep, and to be fined an Ox, was not so much as to be fined a Sheep, therefore the Magistrate pronouncing the fine, *c Bovem prius quam Ovem nominaret, ut innotesceret Romanis mitiores semper pœnas placuisse.*

b Festus in voce peculari.

c P. in lib. 18. c 3 It Alex a. Alex. l 3. c 5.

CAP. 2.

Capitis diminutio, maxima, media, minima, Aqua & Igni, interdici, Proscriptio, Lata fuga, Deportatio, προγράφεσθαι, ταλιτίσιον. Ærarius, In ærarios relati, Religatio, Lanii cum tintinnabulis.

THe corporal punishments are either such as were *Capital*, depriving a man of his life : or *Castigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capital* punishments were sometimes taken in a Civil acception, for the loss of freedom, which the *Romans* called *capitis diminutionem*, Disfranchising, because in every Freeman thus disfranchised, one head of the Corporation was as it were cut off : sometimes it is taken for the loss of ones life, and this they called *Ultimum supplicium*. That Disfranchising, called *capitis diminutio*, was *d* threefold. *Maxima*, *Media* & *Minima*. The least degree was, when the *Censors* pulled a man from an higher Tribe, down to a lower and less honourable,

d Rosin. ant. l. 7 c. 3.

honourable, or when by any cenſure they diſabled a man from ſuffraging, or giving his voice in the publick Aſſemblies: ſuch as were thus in the laſt manner puniſhed, were termed *Ærarii*, and *In ærarios relati*, e *quis omnia alia jura civium Romanorum præterquam tributi & æris conſerendi amiſerunt.* This kind of puniſhment as it may ſeem, was many times exerciſed for irreverend geſture, or ſpeeches uſed by ſuch as were queſtioned by the Cenſors. Three ſeveral examples are noted by *f Gellius*; the laſt is this, *P. Scipio Naſica* and *M. Pompilius* being Cenſors, taking a view of the Roman Knights, obſerved one of them to have a lean ſtarvling horſe, himſelf being fat, and in good plight; whereupon they demanded the reaſon why his horſe was ſo lean, himſelf being ſo fat: his anſwer was, *Quoniam ego, inquit, me curo; equum Statius meus ſervus. Diminutio media*, was an exilement out of the City, without the loſs of ones freedom: *g* It was commonly ſet down in this form of words, *Tibi aquæ & igni interdico.* And it ſeemeth by *h Cæl. Rhodiginus*, to be all one with that kind of baniſhment which the *Romans* called *Proſcriptio*, though it cannot be denied but that *Proſcriptus* ſometimes ſignifieth only ſuch a one whoſe goods are ſet at ſale to ſatisfie his creditors, becauſe he will not appear in the Court; the form thereof is thus; The Creditors having obtained leave of the Lord Chief Juſtice to proceed in this maner, they committed the ordering of the ſale to one principal creditor, and he was called ſimply *Magiſter*, and he in the name of all the reſt ſolemnly proclaimed in the chief places of the City in forma followeth, *i Ille debitor noſter in ejuſmodi cauſa eſt, ut bona ejus divendi debeant; nos creditores patrimonium ejus diſtrahimus; quicunque emere volet, adeſto.* But for the reconciling of both opinions, we may term the firſt to be *Proſcriptionem hominum*, the other *Proſcriptionem bonorum*, which diſtinction being not obſerved, breedeth a great confuſion in the Authors that treat of this puniſhment: and becauſe both were performed by ſolemn and publick

e Sig. de Jur. Rom. l. 1. c. 17

f A Gel. noct. Attic. l. 4 c. 7.

g Cæſar. in orat. Cic. pro. Mur.

h Cœl. Rhod. l. 15. c. 17.

i Roſin. ant. l. 9 c. 12.

publick Proclamations, hence the name *Proscriptio* agreed as well as to the goods confiscated, as to the persons banish'd; according to that, *k Quoniam eorum nomina in publico scribebantur, hinc proscribi dicebantur.* Hence the *l* Grecians used not onely the word [illegible] but also [illegible] to signifie the act of *proscription*, because they wrote in a publick pillar the faults and offences of such as were thus banished. But to proceed without farther digression, *Diminutio maxima* was the loss both of the City, and the freedom; and this I take to be the same which in other terms was called *Lata fuga*, or *Deportatio*, namely, a perpetual exilement: All standing in opposition to that other kinde of banishment, called *Relegatio*, which was the exilement * onely for a season, happily for five years, *&c.* See *Rhod. lib.* 10. *cap.* 5. Though I deny not but that *lata fuga* was so called, not only in respect of the duration of time, it being a perpetual banishment, but also in regard of the places so generally prohibited; *m* for he that was thus banished, was tyed and limited to one peculiar Countrey, all other places in general being forbidden him. Those punishments that deprived of life in ordinary use, and of which there is most frequent mention in Roman Authors, are these which follow: *Furca, Crux, Carcer; Culeus, Equuleus, de rupe Tarpeia dejectio, Scala, Gemoniæ, Tunica, Damnatio, in gladium, in ludum, ad bestias.* In general we are to note, that the execution was without the gates of the City, to prevent the noisomness which such abundance of blood might occasion, *n* for which reason the Executioner dwelt without the City. Likewise those that were adjudged to death, when they went to the place of Execution, a certain little Bell was tied about them, that by the sound thereof, the people might beware of touching the condemned person, because the very touch of him was counted a kind of pollution: this *o Turnebus* observeth out of *Zonaras*, and from thence the Executioners are called *p Lanii cum tintinnabulis.* And for this reason

k F. Macur. in Philip. [illegible] 5.

l Suidas in voce [illegible].

* Adde quod edictum quamvis immite minaxq; Artamen in pœnæ nomine lene fuit; Quippe relegatus, non exul dicor in [illegible] Ovid. de Trist. Lib. 2. Eleg. 1.

m Th. Iosan. syntag. Jur. univ. l. 31.

n Plaut. Cas. 2. 6.

o Turn. adv. l. 11. c. 21.

p Plaut. Pseud. l. 3.

q Rosin. ant. l. 10 c. 19.

reason *q* it was, that a little bell and scourge was hanged up in the hindmost part of the Chariot, wherein the Lord General did ride in his triumph, a publick Officer which rid with him in the same Chariot, now and then plucking him behind, and bidding him look back, using this form of words, *r Respice post te, hominem memento te*, that is, *Sir look behind you, remember your self to be but a man.* For the sight of the scourge and bell served to put him in minde, that notwithstanding his present Triumph and Acclamations, his after-miseries might be such, that he might be punished not only with whips, but even with death it self.

r Tertul. Apolog. c. 33.

CAP. 3.

Furca, Furcifer, Supplicium more Majorum, explained.

ANcient Authors which do write of the Roman *Furca*, do rather mention it, than explain it: but if we diligently observe what they speak of it, we shall finde the use thereof to have been threefold. The first ignominious, which *a* was when the Master forced the servant for small offences *furcam circa urbem ferre*, to carry his *furca* upon his shoulders about the City, confessing his fault, and admonishing others to beware of the like offence, and *b* hence such a servant was afterward called *furcifer*; and here I think was use of those *stimuli* or goads, whereof I shall speak more in the Chapter following; namely, that when the party thus to be punished dragged back, and shewed himself unwilling, then did the Executioner prick him forward with these kind of goads. The second sort was penal, when the party having the *furca* on his neck, was led up and down the Cirque, or some publick place, & on the way to be whipt, but not unto death: *c* thus *C. Matienus damnatus sub furca diu virgis cæsus erat, & sestertio nummo venit.* He was

a Isidor. orig. l. 10.

b Plut. in Coriol.

c Epit. Liv. dec. 5. l. 6.

was afterward sold, and therefore died not under the punishment. The third sort was penal too, but in a higher degree; namely, when the malefactor having his head fastened to the *furca*, was whipt under it unto death; and this was by a peculiar name called *d Supplicium more majorum*. This yet differed from that beheading with an Ax, which was in use among the Romans, and called by the Grecians πελεκισμὸς from πελεκὺς, signifying an ax or hatchet; it differed I say from this, because howsoever there was in this σταυρῷ πρόσδεσις a tying the party to a stake or post, and also μαστίγωσις, a whipping, in both which it agreed with the former punishment; yet herein they differed, because in the former they were whipped to death, in the latter they were after their whipping beheaded with an ax, as appeareth by the *e* execution of *Antigonus* the King of the Jews. But to proceed in the description of the *furca*, the form thereof I take to be like the beam of a Wain, unto which the yokes are fastened; it resembleth a fork, and the *furca* is called ξύλον ἁπλοῦν, διχῆν, δίδυμον i. e. *lignum duplex, bicornutum, geminum*, in English a forked piece of timber; there is no such piece throughout the whole Wain, as the form of Wains is in these days, but only the beam thereof. *f Plutarch* treating of the *furca*, saith that it is ξύλον ἀμάξης ᾧ τὸ ζυγὸν ἀπερείδεται, that is, a piece of timber about the waggon or wain, wherewith they upheld the beam; and he addeth, that what the Grecians call ἀποστάτας and σκέλη, the Romans call *furca*: now *Hesychius* describeth σκέλη to be τὸ διχῆν ὅπερ ὑποτίθεται τῷ τῆς ἁμάξης ζυγῷ, that is, the forked piece of timber, which they put under the yoke of the Wain; correct *Plutarch* by *Hesychius*, and for ᾧ ζυγὸν read τὸ ζυγὸν, and you have in both the description of the beam in the Wain. Some think that *Plutarch* compareth the *furca* to certain forked pieces of timber, wherewith the Wain was upheld whiles it was unloaded; but how this can stand with *Hesychius* his description of σκέλη, I am yet to learn; notwithstanding

d Suetor. in Ner. 49.

e Dion l. 49.

f Plut. in Coriol.

ing if we admit this interpretation, that which I would hence infer is rather confirmed, than any way weakened; namely, that the form of the old Roman *furca* was forked; neither do there appear any testimonies so evident to me, as to perswade that among the ancient Romans any other was in use. True it is that in after-ages the form thereof was the very same with our *Gallowses*, which are now in use, and this haply began, when the use of crucifying was interdicted, which interdiction we read first to have taken place in *g Constantines* time.

g Sozom. Eccles. hist. l. 1. c. 8.

CAP. 4.

Crux Servile supplicium, Titulus.

CRucifixion hath been a punishment in ancient use among the Romans; it was abrogated by *Constantine*. It was a death that commonly servants were sentenced unto, seldom times freemen, whence it is many times noted out by the name of *servile supplicium* by *Tacitus*: yet *h* sometimes freemen, though of the baser sort, and for notorious offences, were adjudged to this kind of death: nay a clear example hereof we have in that * Guardian which *Galba* crucified for poysoning his Ward, for the Guardian calling for the benefit of the Law, and avouching in his plea, *That he was a Roman Citizen*, *Galba* as if he would allay his punishment with some comfort and honour, commanded the Cross already made to be changed, and another to be reared far higher than the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their Cross upon their shoulders to the place of execution. *i Malefici eum ad supplicium educuntur, quisq; suam effert crucem.* k *Artemidorus* is as plain, ὁ οἶκε γὰρ καὶ ὁ σταυρὸς θάνατον, καὶ ὁ μέλλων προσελεῦσθαι, πρότερον αὐτὸν βαστάζει, that is, The Cross is like unto death, and he which was to be crucified did first bear it: The party that suffered this kind of death, was first stripped of all his clothes, for he suffered *l* naked; then

h Vid. Lips. de cruc. c. 11. l. 1

* Suet. Gal. 9

i Plut. de sera numinis vind.

k Vid. Lips. de cruce l. 2. c. 5.

l Artemid l. 2. c. 58.

then was he fastned unto the Cross, and that commonly with nails, the Greek word προσήλωσαν clearly evinceth as much; we may render it *Clavi fixio.* Now that the equity of the proceeding might clearly appear to the people, the cause of his punishment was written in Capital letters; hence *m Dio* speaketh of a servant dragged to the Cross κατὰ κεφαλῆς τὴν αἰτίαν τῆς δίκης ἐπιγράφων, that is, with letters declaring the cause of his death. This inscription was called αἰτία, *Mat.* 27. 37. It was also called τίτλος *Joh.* 19. 19. from the Latine word *titulus* used in the same sense. And sometimes ἐπιγραφὴ τῆς αἰτίας, *Mar.* 15. 26. or simply ἐπιγραφὴ *Luke* 23. 18. *n Tertullian* and *o Suetonius* calleth it *elogium.* The like kind of publishing the cause either by an Inscription, or by the voice of a common Crier, was not unusual in other capital punishments, as *Attalus p* the Martyr was led about the Amphitheatre, ἐπιγραφὴ αὐτῷ προῆγεν ὡς ὃ ἐγγράπτω φωνοῦσι τῶν Ῥωμαίων Ἄτταλος ὁ Χριστιανός. *i* A table being carried before, in which was written in Latine, *This is* Attalus *the Christian.* That of *q Suetonius* is not much unlike, *Patrem familias detractum e spectaculis in arenam canibus objecit, cum hoc titulo, Impiè locutus Parmularius.* What is meant in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the Chapter of *Fencers.* Moreover, such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearly evinceth as much: the parts whereof are two: First, *r Verbera intra aut extra pomerium.* Secondly, *Arbore infelici suspendito.* This whipping was sometimes *sub furca*; so this, * *Valerius* is plain, *Cum servum suum verberibus mulctatum sub furca ad supplicium egisset*: sometimes *ad columnam. Artemidorus* is clear in this, προσδεθεὶς κίονι πολλὰς ἔλαβε πληγάς, that is, being tied to the Pillar he received many stripes. Haply *f Plautus* alludeth to the same:

m Vid. Lipsi. de cruce l. 2. c. 11.

n Apol. c. 11.

o Suet. in Cal.

p Euseb. eccl. hist. l. 5. c. 1.

q Suet. Dom. c. 10.

r Liv. l. 1.

* Val. Max. l. 1. c. 7.

f Plaut. Bac.

——— *abducite hunc*
Intro atq; adstringite ad columnam fortiter.

Yea, the antient *t* Fathers say that our blessed Saviour

t Prudentius Hieronym. Beda v. Lipsi. de cruce, l. 2. c. 4.

was thus whipt: Touching the place or manner the Scripture is silent, only that he was whipt it testifieth, and that with scourges, Τὸν δὲ Ἰησοῦν φραγελλώσας παρέδωκεν ἵνα σταυρωθῇ, *Mat.* 27. 26. This fore-whipping I take to be a matter unquestionable, but that they should be whipt on the way towards the place of execution; I much doubt, much more that they should be goaded on the way with pricks and goads by the executioner. That there was

u Plaut. mil. a. 6. *u Stimuleum supplicium*, a kind of punishment with pricks and goads, is evident, and hence cometh that phrase *Stimulo fodere*, & hence that other phrase of *Kicking against the pricks*. Parallel to which is that of *Plaut. Truc.* 4. 2. *Stimulos pugnis cædere*. But this kind of punishment I take to have been exercised only by Masters towards evil servants, and that not as preparatory to death, but for their reformation in future times: whence by way of

x Plaut. Most. 3. 2. l. 1. contempt, a servant thus handled, was termed *x Carnificinum cribrum*, because he had his back so goared with those pricking instruments that it looked like a sieve full of holes. Otherwise if we understand it as a punishment imposed by publick authority, we may say, that thereby is denoted a certain punishment exercised towards thieves in time of their examination, that by the pricking and goading of them, the truth might be confessed;

a Cœl. Rhod. lect. antiq. l. 10. c. 5. * for to that end thieves were thus tortured, and thence were they called *Centrones*, from κέντρον *Stimulus*. Lastly, we must remember that these three words, *Furca*, *Crux*, and *Patibulum*, are many times used promiscuously, signifying the whole Cross on which malefactors suffered: but in strict propriety of speech, *Furca* signifieth that forked instrument of which we treated in the former Chapter; *Crux*, that erect part of the Cross standing upright: and *Patibulum*, the thwart piece of timber upon the top of the Cross: yet sometimes also *Patibulum* is taken for the Roman *furca*, whence *Patibulatus* and *Furcifer* are used as words equivalent, and in both senses it may borrow its name from *Pateo* to lie open; because

as

as the malefactors hands were ſpread abroad being faſtened to the thwart piece of timber upon the top of the Croſs: ſo were they likewiſe ſpread abroad under the *Furca*, his two hands being tied to the two forked ends thereof.

CAP. 5.

Carcer, Ergaſtulum, Tullianum, Robur, Mala manſio, Nervus, Columbar, Numell, Codex.

HOwſoever *Carcer* and *Ergaſtulum* are uſed promiſcuouſly by modern Writers, yet if we diligently enquire into each words origination, and how they have been uſed by more antient Authors, we ſhall find them thus differenced. *Ergaſtulum* was a Priſon much reſembling our houſe of *Correction*, into which ſervants only were caſt: *Carcer* a more publick Priſon, unto which men of better rank and faſhion upon juſt occaſion were committed. Secondly, the power of ſentencing any ſervant to the *Ergaſtulum*, was proper and peculiar to the Maſter of the ſervant, without approbation from publick authority; but the power of committing to the Priſon called *Carcer*, was only in the publick Magiſtrate. Thirdly, *Ergaſtulum* took away only the liberty and pleaſure of life: *Carcer* life it ſelf. The word *Carcer* hath his name *à coarcendo*, from reſtraining men of their liberty. *a* It had two principal parts, the one called *Tullianum*, the other *Robur*, beſides many other rooms wherein men were kept cloſe Priſoners: Thoſe two places were aſſigned for execution. In that which they called the *Tullianum* (we may engliſh it *Dungeon*) they ſtrangled malefactors. *b* It had its name from *Servius Tullius* a *Roman* King, the firſt inventor and Author thereof. Of this *Saluſt* writeth, *Eſt locus in carcere quod Tullianum appellatur, ubi paulatim aſcenderis ad lævam circiter duodecim pedes humi depreſſus, eum muniunt undiq; parietis, atq; inſuper camera lapideis fornicibus juncta, ſed inculta tenebris, odore fœda, atq; terribilis ejus facies eſt.* In that other place which they called commonly

a Sig de jud. l. 3. c. 17.

b Sig. ibid.

commonly *Robur*, ſometimes *c Robuſtus Codex*, ſometimes *d Cuſtodia lignea*, ſometimes *e Italum robur*, (our Engliſh phraſe *ſtrong hold* fitly anſwereth it) they broke maleſactors necks by a kind of precipitation or tumbling them headlong *f* from a certain ſtock of a Tree faſtened there in the earth; unto this *Tully* alludeth, *Quæro fregeris ne in carcere cervices illi ipſi Victio:* But more expreſly *Plautus*, *g At ego facism vos ambos in robuſto carcere ut pereatis.* Thoſe that had that chief overſight in ſuch executions, were called *Triumviri capitales*, that is, *High Sheriffs*. The whole proceeding is ſet down by *Valerius*, *h Mulierem damnatum Prætor Triumviro necandam in carcere tradidit, quam receptam is qui cuſtodiæ præerat, miſericordia motus non protinus ſtrangulavit; æditum etiam filiæ dedit, ſed diligenter excuſſæ, ne quid ſibi inferret, exiſtimans futurum, ut inedia conſumeretur; cum vero animadverſiſſet filiam matrem lactis ſui præſidio ſuſtentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prætor ad conſilium judicum pertulit, & remiſſionem mulieri impetravit.* It is much controverted among interpreters what that kind of puniſhment was which they termed *Malam manſionem*, we may engliſh it, *Little-eaſe*. Some underſtand hereby a certain deep dungeon, made in the form of a pit or well, called therefore in Latine *Puteus*, but this as it ſeemeth by that of *Plautus*, was a puniſhment proper and peculiar to theeviſh Cooks: *i Coqui abſtulerunt, comprehendite, vincite, verberate, in puteum condite.* Others underſtand hereby a cloſe Priſon, which becauſe of its ſtraitneſs and cloſeneſs they called *arcam*, a cheſt: the uſe of this Priſon was for the ſafe keeping of ſuch who were afterward to be examined of farther matters; though ſometimes other offenders were caſt into the ſame. Of theſe Priſons *Tully* ſpeaketh, *k Subito abrepti in queſtionem, tamen ſeparatur à cæteris, & in arcas conjiciuntur, ne quis cum his colloqui poſſit.* Another kind of Priſon there was, called *Sextritium*, thus it is commonly rendred in Latine, but the Greek word is σεξτρτιον, & accordingly *l Turnebus* renders it *Seſtertium*, being

c Plaut. Pœn. 5. 3.
d Plaut. Pœn. 5. 6.
e Hor. lib. 2. Od. 13.
f Turn. adv. l. 23. c. 21.
g Plaut. in cur. c. act. 5. ſc. 5.
h Val. l. 5. c. 4.
i Plaut. Aulul. 2. 5.
k Cic. p. Milone.
l Turn. adv. 3. c. 18.

being of opinion that is was so called from the quantity of ground it contained, namely two acres & an half. *C. Rhodiginus* thinketh that *Spoliarum* and *Sextritium* were not places unlike; but herein not he alone, but divers others have been deceived; for *Sextritium* is apparently a place of *b* execution, where those were executed whom the *Roman* Emperors adjudged to death: now whether that *Spoliarium* were a place of Punishment, I much doubt. What in Latine we call *Spoliarium*, that the Greeks termed Σποδυτήριον, both do signifie primarily little Cells or Chambers neer adjoyning to the Bath, where such as washed themselves laid up their cloaths: In a borrowed sense both are used to signifie Chambers and Cells adjoyning neer unto the Amphitheatre or fencing place, wherein the Fencers did put up their cloaths in time of fight, and because such as were wounded in fight were carried into those Chambers, where they languishing with much pain, at last notwithstanding expired for the most part, and that not without much torturing of the Chyrurgion; hence such a *Spittle-house*, is also called *Spoliarium*. Thus much *Seneca* seemeth to intimate, *c Nunquid aliquem tam cupidum vitæ putas, ut jugulari in spoliario, quam in arena malit!* Whereby it appeareth that *Spoliarium* was not a prison, unto which malefactors were judged, but rather as I said, a kind of *Spittle-house*. Other kind of punishments there were of a neer likeness with Imprisonments, as casting into the Pillory, laying one by the heels, *&c.* Of these little is spoken more than the very names: of this sort those that do most commonly occur in Authors, are these; *Nervus*, *Collumbar*, *Numella*, *Codex*. *Nervus* is generally thought to resemble our *Stocks*. *d* Some take it to be made of wood, others of iron, *e Nervum appellamus ferreum vinculum, quo pedes impediuntur: quanquam Plautus etiam vinciri cervices ait.* Two of the last seem to have some resemblance with our Pillory: *Collumbar* had its name from *Collum*, because the neck was chiefly pained in

b Plut. in Galb.

c Sen ep. 94. De spoliario. Vid. Lips. sat. 1. 18.

d Vid. Taubman. in Plaut. Aulul. 4. 10.

e Fest. Vid. Lam in Plaut. Aulul. 4. 10.

in this kind of punishment. *Numella* was also a kind of *Pillory*, being so called, *quasi* n *Nuella, quod qui eo vinculo constricti erant, nuere demissoq; capite esse cogebantur. Codex* was a certain block or *Clog*, so tyed unto the Malefactors, that they used it as a stool to sit on: The use of this may seem to have been only in private houses, thereby to keep evil servants the closer to their work: Of this *Juvenal* speaketh, *Sat.* 2.

n Turn. adv. l. 23. c. 21.

Horrida quale facit residens in codice pellex.

o Turn. ibid. o *Turnebus* describeth it thus, *Codex est lignens stipes, quem allegati servi qui deliquerant trahebant, cuiq; insidebant vincti.*

CAP. 6.
CULEUS.

THe Crime which in Latine we call *Parricidium*, is murder practised by Father or Mother towards the children, or by the Children towards either of their Parents. It had in old times a larger acception, signifying any murder between man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so unnatural, that neither *p Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it, and the prohibition it self might prove a kind of irritation to provoke some to the commission of the crime, which otherwise would never have entered into their hearts: but the wickedness of the after-times, enforced Lawgivers to invent a sharp punishment against such unnatural offences. The punishment decreed against Parricides in *q Seneca's* Age, was, that such malefactors should be sowed up in a leathern sack, together with Serpents, and so cast into the Sea: afterward there was sowed up in the same sack an Ape, and a Cock, and at last a Dog. Whence *Juvenal Satyr.* 8.

p Cic. pro Sext. Rosc.

q Sen. lib. 5. controv. 4. in fine.

Cujus

Cujus supplicio non debuit una parari
Simia, nec serpens unus, nec culeus unus.

a Modestus describeth the manner thereof thus: The Parricide being first whipt with rods until blood came, then was he sewed up in this sack called *Culeus*, together with a Dog, a Cock, a Serpent, and an Ape. *b* They would not cast him naked into the sea, lest the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

a Digest. lib. 48. ad legem Pomp. de parric. vid. Cœl. Rhod. l. 11. c. 21.
b Cic. pro Sext. Rosc.

CAP. 7.

Eculeus, Lamina, Ungulæ, Fidiculæ, χνισμὸς.

E*Culeus* had its derivation from *Equus, quasi Equuleus*, as may be collected from that description which *c Turnebus* giveth, But not so much from the positure or situation of the offenders body on the Engine, as *Turnebus* would have it, for he in no wise resembled a man on horseback, but rather from the horsing or hoising up of the party fastened with ropes unto the *Equuleus*, so that his hands being tied fast at the upper part of the Engine, and his feet at the nether part, he was hoised up in the air like unto one fastened on a Cross. The form of the *Equuleus*, I conceive thus, It was not one entire stake, but rather two long pieces of timber joyned together in form of a stake, joyned together, I say, by the means of a vice or scrue; and the reason hereof was, that by help of this scrue, the upper part of the Engine might be lifted up to the racking and torturing of the malefactor, or let down to the easing and remitting of his pains, as should seem good to the executioner, or other Officers, who now and then would grant some remission and respite in hope of a confession. For in the first institution, the main end of this torture was to work out the knowledge of the truth. Neither did they alone rack the parties joynts in this kind of punishment, but to enforce him unto a confession by an augmentation of his pain,

c Turn. adv. l. 4. c. 3.

they did often with hot plates of iron pinsers, burn and teare his flesh from his sides; and all this we shall find warranted by *d Sigonius*, whose words I have written down at large, *Eculeus cataſta fuit lignea, cochleata, ad intendendum ac remittendum apta, atq; ad torquendos homines, tu facti veritas eliceretur, inſtituta. Tormenti vero genus erat hujuſmodi, ubi cataſtæ huic brachia pedeſq; ejus, qui torquendus erat, nervis quibuſdam, quæ fidiculæ dicebantur, alligaverat, tum cataſta intenta atq; in altum erecta, ut ex ea quaſi ex cruce quadam miſer ille penderet, primum compagem ipſam oſſium illius divellebant, deinde candentibus ejuſdem corpori laminis admotis, atq; biſulcis unguibus ferreis lateribus laniatis doloris acerbitatem agebant.* And thus we see what the uſe of the *Laminæ* & *Ungulæ* were; namely, that they were not ſeveral torments of themſelves, but adjuncts to this, to encreaſe the pain. The *Eculeus* was ſometimes called *e lignum tortorium*: ſometimes *ſtipes noxialis*. The torturing Engine called *Fidicula*, was not much unlike: *Fides* ſignifieth the ſtring of any muſical inſtrument, and the Engine had its name from the ſtrings and cords wherewith men were tortured upon it: of this *g Turnebus* writeth, *Fidiculæ quæ in tormentis numerantur, mihi videntur laſcivia quadam joci nomen invenisse, quod ut in fidibus nervi item quoq; ut hinc & inde multis funibus homines diſtendebantur.* The torment μηχανὴ uſed by the *Grecians*, was either this ſame or very like.

d Sig. de jud. l. 3. c. 18.

e Sozo. hiſt. Eccl. l. 5.

f Prudent. in hymno Vincent. Mart.

g Turn. adv. l. 4. c. 3.

CAP.

CAP. 8.

De rupe Tarpeia dejectio. De lapide empti. A furca redempti. Scalæ Gemoniæ. Tunica. Damnatio in gladium, in ludum, ad bestias.

MAlefactors for notorious offences were tumbled down headlong from a certain rock in the *Tarpian* Mount. This kind of punishment was called either simply *Dejectio è saxo*, or *Dejectio è Tarpeia rupe*. In some cases notwithstanding by the intercession of friends, or some other means, Pardons were sometimes obtained for the condemned persons, whereby they were freed from death, howsoever the disgrace and infamy cleaved ever after unto them, and therefore they were termed *de lapide empti*: which phrase *h Cœl. Rhod.* hath parallel'd with that, *à furca redempti*, that is, *Saved from the Gallows*. In the *Aventine* Mount was a place of like nature, called *Scala Gemoniæ*, certain stairs whither condemned persons were dragged, and so cast headlong into the river *Tiber*. *Cal. Rhod.* seemeth to be of another opinion: *i* who describing this punishment, saith that a hook was thrust into the malefactors throat, and so he haled by the Executioner unto these stairs, where having his thighs broken he was burnt. Furthermore he addeth, that they were called *Scalæ Gemoniæ*, or *gradus Gemonii*, because as some are of opinion, the first that suffered this kind of punishment, his name was *Gemonius*: or as others would have it, because it was *locus gemitus, & calamitatum*. If we admit that malefactors were here burnt, then may we think this punishment *ad Scalas Gemonias* to be the same, which sometimes was called *Tunica*. The reason of which name was, because persons thus to be burnt, were clad with a Coat dawbed in the inside with pitch and brimstone. Thence is that of *k Seneca, Cogita illam tunicam alimentis igneam & illatam & intextam*. This giveth light to that of *Juv. Sat. 8. Tunica punire molesta.*

h Cœl. Rhod. ant. l. 15 c. 22

i Cœl. Rhod. l. 10. c. 5.

k Sen. ep. 14

l Tertul. ad Martyr.

l Tertullian alſo mentioneth it in this ſenſe. To theſe may be added two other puniſhments uſually inflicted upon fugitive ſervants, but yet not ſo reſtrained unto them, as that they were not ſometimes extended to other maleſactors. The firſt is *Damnatio in gladium*, a condemning one into a Fence-ſchool, there to be trained up in the Art of Fencing, until ſome publick prizes were plaid, at which time ſuch condemned perſon was to fight for his life. *m Capitolinus* calleth it *Ad gladii ludum deputationem*. But *Ulpian*, as *n Lipſius* elſewhere obſerveth, differenceth theſe two phraſes thus: He that was *ad gladium damnatus*, was either preſently put to death, or elſe at fartheſt within the compaſs of a year: but he that was *damnatus in ludum*, had not death ſo peremptorily ſentenced upon him; if he eſcaped the danger of thoſe publike prizes, and always got the upper hand of his adverſaries, at three years end he received the *Rudem*, or wand, which was a token of diſcharge from thoſe bloody combats: yea, at five years end he received the *Pileum* or Cap, which was a token of his enfranchiſement or freedom in the City. The ſecond ſort was *Damnatio ad beſtias*, a condemning of a man to fight for his life with beaſts, as with Bears, Leopards, Lions, *&c.* The perſons condemned were termed *o Beſtiarii*. A memorable example thereof we have in a certain Roman ſervant called *Androclus*, *p* who having run from his maſter, lived in a wilderneſs, and while he reſted himſelf in a den, there came a fierce Lion unto him, moaning and grieving becauſe of the ſtump of a Tree which ſtuck faſt in his foot; *Androclus* at firſt began to be affrighted, but the Lion coming nearer and nearer unto him, and laying his foot on the mans lap, intimated his deſire of help from him, which when the man perceived, he plucked out the ſtump, and gave him what eaſe he could. Afterward this fugitive being apprehended & adjudged to this puniſhment, it hapned that this very Lion was brought into a ſhew-place for *Androclus* to fight with, where inſtead of

m Vid. Lipſ. Sat. l. 2. c. 3.

n Lipſ. Sat. l. 2. c. 23.

o Alex. ab Alex. l. 3. c. 5.

p A. Gell. l. 5. c. 14.

a

a fierce onset, the Lion used a tame and familiar fawning on him, whereupon the spectators admired, and understanding the former passages between *Androclus* and the Lion, they released the servant, and freed him from his punishment. Where we must note, that this Pardon was extraordinary: *q* for usually if any so condemned happened to overthrow a Beast or two, yet was he not thereby discharged, but was to encounter with others until he were killed. Yea, it was very seldom that the man could prevail against the beast, on the contrary, one Lion hath prevailed against two hundred men, according to that, *r Præclara ædilitas, unus Leo ducenti bestiarii.* By which we see many men one after another did thus fight with beasts at the same meeting: yea the *s Grecians* called such as succeeded the first Combatants ἐφέδρους, the Apostle St. *Paul t* calleth them ἐσχάτους, because they were reserved until the last. *u Tertullian* readeth that place in this sense, and the words themselves enforce as much: for what shall we understand by θέατρον ἐτεμέθεμεν, but the very spectacle or shew it self? and what ἀπέδοξεν, which signifieth properly *Ostendit*, but an allusion to him who was the chief Author and exhibiter of these bloody spectacles unto the people? * *Lipsius* hath parallel'd that phrase of *Tully*, *Ostendere munus*, with that of *Suetonius*, *proponere munus*; both signifying the setting forth or bestowing the sight of such masteries and fightings. And that it was no unusual kind of Martyrdom in times of the Primitive Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who rejoyced to be ground between the teeth of wild beasts, that he might be found pure bread; whose words were, *x Frumentum sum Christi, & per dentes bestiarum molor, ut mundus panis Dei inveniar*: yea the word Ἐπιθανατίους, *morti addictos*, helpeth this interpretation: The word intimateth that there was a sure death remained for them also, though the last. The custom being in the morning to commit men with beasts, but those

q Salmut. in Pancirol. de veter. ludis.

r Cic. in orat. pro Sestio.

s Suidas in voce Ἐφόδροι

t 1. Cor. 4. 9.

u Tertul. lib. de pudicit.

* Lips. Sat. l. 2. c. 18.

x Iren. adv. hær. l. 5. c. 28. It. Eus. hist. Eccl. 3. c. 33.

those ἐχατοὶ which remained till noon-tide, and were therefore called *Meridiani*, were commited each against other, and that without any defensive weapons, with swords in one hand cutting, and with the other hand being empty, grasping and tearing each others flesh, so that *z Seneca* speaking of this, comparing it with that former fighting with beasts, saith, *Quicquid ante pugnatum est, misericordia fuit.*

y Suet. Clau. c. 34.

z Sen. ep. 7.

CAP. 9.

Ergastulum. Ergastula inscripta. Pistrinum. Damnari in Antliam. Metallum. Inscripti. Stigmatici. Literati. Virgæ. Flagella. Talio.

THe state and condition of servants was various and differing among the Romans in old time, but of all they were most miserable who lived in prison. Whence those that were ordinarily imployed in these prison services, they were either such servants as were bought for that purpose, or such as for notorious crimes were adjudged thereunto by way of punishment, whence the word *Ergastulum* is chiefly derived from the Gr. Ἐργάζομαι, because it is τόπος εἰ ᾧ οἱ δεσμῶται Ἐργάζοντας: *locus in quo vincti operantur.* For even in the day time when they were sent to work, they had shackles & bolts about their legs to prevent their scapes or running away, though not so big as those into which they were cast at night when they returned into prison. Their fetters or bolts are oftentimes in ancient writers (peradventure from the form of their links) termed *Annuli*, and themselves said to have *pedes Annulatos*. They had also their foreheads marked or burned with some letters of infamy, which is the reason of *Juvenals* Epitheton, *Inscripta Ergastula.*

Quem mirè adficiunt inscripta Ergastula.

The labours in which they were imployed, were, sometimes digging, delving, and tilling the ground: sometimes digging of quarry pits, sometimes grinding with an hand-mill, sometimes drawing water: This latter kind of

of puniſhment in *m Suetonius* his phraſe is *Antiliam damnari.* Thoſe Criticks who for the word *Antlia* do ſubſtitute *Anticyra*, or *Andia*, or ſuch like name of Iſlands, do utterly fail of the Authors ſcope and drift; for the puniſhment which *Suetonius* ſpeaketh of, is ſome ſtrange or unuſual puniſhment: now ſeeing that Senators themſelves were often exiled, it could not ſeem ſtrange that Roman Knights ſhould be baniſhed into forraign lands; but this was a matter unuſual, and unheard of, that a Roman Knight ſhould be imployed in ſuch drudgeries. Again, the word *Antalia* fitly denoteth ſuch a kind of labour, whether we reſpect its Etymologie ἀπὸ τῦ ἀντλεῖν, or its ſignification in Latine Authors, it being uſed by them to ſignifie a great bucket or water ſcoop to draw up water. Thus *Martial.* *Curta laboratas antlia tollit aquas.*

m Suet. Tib. c. 51.

The hand-mill is often expreſt by the Latine word *piſtrinum*, a word frequent in Comical Authors. It much reſembled our *Bride-well*, or place of correction, being called *piſtrinum à pinſendo*, from pounding. For before the uſe of mills was known, the Romans did pound their corn in a great morter, calling the place where they pounded it *piſtrinum:* whereupon our hand-mill hath retained the ſame name to this day. And becauſe of the great pains that men did ſuffer in pounding, as likewiſe the ſtrict diſcipline uſed towards ſervants thus puniſhed (for *n* their neck was thruſt into a certain wooden Engine called *Pauſie cape*, made for the purpoſe, leſt haply in time of grinding they might eat of the meal) hence grew a cuſtom among them, that when a ſervant had offended his maſter, he would menace him in this manner, *In piſtrinum te dedam*, I will caſt thee into *Bride-well.* The puniſhment *Metallum* was not much unlike the digging in mettal-mines, & working in mettal houſes, it appeareth not only to have been a baſe and ſervile, but alſo a very laborious and painful work; whence it was eſteemed a grievous puniſhment to be adjudged to mettal works, or caſt into a mettal houſe. And either by the increaſe of

n Turn. adv. l. 4. c. 13.

ſuch

ſuch mens pains, or for to keep them from eſcapes, they were enforced to work with their fetters and gyves about them, as is implied by *o Ulpian*, who makes the difference between theſe two phraſes, *Damnari in metallum*, & *Damnari in opus metalli*, to be thus; that the firſt ſort did wear heavier and greater fetters than the laſt. How true the difference is, I leave it to the enquiry of others, but that it was a great and infamous puniſhment *p Tertullian* witneſſeth, in that ſpeech of his againſt the Heathen people, *De veſtris ſemper æſtuat carcer, de veſtris ſemper metella ſuſpirant.* Sometimes there was only ignominy and diſgrace intended in their puniſhments, of which ſort was the bearing up and down the Roman *furca* in the Market place, or elſewhere in publike view, whereof I have ſpoken in the Chapter of *Furca*, likewiſe a branding of the malefactor with ſome infamous letter in the forehead or hand, or ſome other part of the body: whence *q Pliny* calleth ſuch ſervants *Inſcriptos*. Generally they are called *Stigmatici*, from στίζω, which ſignifieth to brand with marks; as *Nebulo ſtigmaticus*, a rogue burnt in the hand, or any way marked; ſometimes ſuch are called *Literati*. The *Athenians* being enemies to the *Samii*, as often as they took them captives, they did uſe thus to burn them for rogues, which occaſioned that proverbial ſcomme, *Samiis neminem eſſe literatiorem.*

o Vid. Cœl. Rhod. l. 10. c. 9.

p Tertul. Apolog. c. 44.

q Plin. l. 18. c. 3.

r Cœl. Rhod. l. 7. c. 13.

Sometimes beſides the diſgrace, there was alſo toilſom pains, as appeared by their *Ergaſtula*, and ſometimes to their pains, ſtripes added: Though I deny not, but that many times, correction with ſtripes was a preparation for death it ſelf. This correction by ſtripes was twofold, either it was *Verberatio*, or *Flagellatio*: The firſt was with rods called *Virgæ*; the other with ſcourges called *Flagella*. That there was a difference between *Virga* and *Flagella*, is plain by *Tully*, where by way of Irony he ſaith, *Porcia lex virgas ab omnium civium corpore amovit; hic miſericors flagella retulit.* Both of them were counted ſervile, ſo that freemen were ordinarily exempted from them, as appeareth.

—*m Ad*

— m *Ad necem operire loris. San. loris liber?* m Ter. Adel. act. 2. scen 1.

Horace also intimating the servile condition of *Meva*, saith:

n *Sectus flagellis hic triumviralibus.* n Epod. Od.

They are called *Flagella triumviralia*, from those *Triumviri* who formerly I translated Sheriffs, because to them belonged the oversight of this punishment. *Eustathius* calleth them ἀστραγαλωτὰς μάστιγας, i.e. *Flagra talaria, seu taxillata*, because to augment the pains, they did usually in these scourges tie certain huckle-bones, or plummets of Lead at the end of the whip-cords, or thongs, and such scourges they termed *Scorpiones*. The cruelty of the scourges was such, that they many times died under them. Thus have we generally and briefly touched the more usual Punishments. But sometimes wrongs done between party and party, were punished with a retaliation of the same kind: according to that, *A tooth for a tooth, and an eye for an eye.* And this kind of punishing was called *Talio*. Yet we are to know that a simple retaliation, such as is termed *Talio Pythagorica*, was not alwayes exacted, but sometimes satisfaction might be wrought by a commutation of the punishment. o *Reus habuit facultatem paciscendi, & non necesse habuit pati talionem, nisi eam elegisset.* It were endless to speak of all their Punishments, and haply not worth the labour, their very names being sufficient Comments to explain them. As *Effossio oculorum*, *Amputatio manuum*, *Crucifragium*; *Talifragium*, and such like.

Tholosan. in syntag. jur. univ. c. 11. l. 31.

o A. Gel. l. 11 c. 1.

LIB. III. SECT. IV.

Of the Roman *Laws.*

CAP. I.

De Legibus.

HAving ſpoken of the Civil Magiſtrates, and Puniſhments, we will now alſo deſcend unto the Civil Law: where firſt we will note among other differences between *Jus* and *Lex*, principally theſe. 1. *Lex* ſignifieth only the Law, but *a Jus* ſignifieth alſo that place, whereſoever the Law of Juſtice was adminiſtred: not only if it were adminiſtred out of the Tribunal in the *Comitia*, or great Hall of Juſtice, which was termed by the Lawyers, *Agere pro Tribunali*: but alſo if it were adminiſtred in a private houſe, or in ones journey, ſo that it were by a lawful Magiſtrate, and out of a curule chair; and this was termed by the Lawyers, *Agere de plano*: and hence is it, that *In jus vocare* ſignifieth to cite one into the Court. 2. *Lex* ſignifieth only the written Law, but *Jus* ſignifieth equity, ſo that *Jus permaneat ſemper nec unquam mutetur, Lex verò ſcripta ſæpius.* Notwithſtanding thoſe two words uſed promiſcuouſly one for the other, and therefore leaving all curious differences between thoſe words (whether the Roman laws were truly *Jura* or *Leges*) thus much we may obſerve, that the laws uſed among them were of three

[a] Sig. de jud. l. 1. c. 7.

[b] Fr. Sylv. in orat. pro Mil.

ſorts:

ſorts: either they were ſuch as were made by ſeveral *Roman* Kings, and afterward collected and digeſted into a method by *Papirius*, c from whence it was called *Jus Papirianum*: or they were ſuch as the *Decem-viri* brought from *Athens*, and were called *Leges 12. tabularum*: or laſtly they were ſuch as the *Conſuls*, the *Tribuni plebis*, and ſuch Magiſtrates did preſer, whence every ſeveral law bore the name of him or them that preferred it. My purpoſe is to explain only this latter ſort, and that not all of them, but ſuch alone as I have obſerved in *Tully*, and that chiefly in his Orations. My proceeding ſhall be firſt to ſhew the divers kinds of Judgements: and then to deſcend unto the laws themſelves, beginning with thoſe which ſhall concern the *Roman* Religion, and then proceeding to the others which concern the Common-wealth.

c F. Sylv. in ep. virorum illuſt. l. 5. ep. 11.

CAP. 2.

De Jure publico & privato.

THe caſes to be decided by the law were either publike or private, and accordingly were the judgements, *d vel privata, in quibus jus ſuum privatus quiſq; perſequebatur: vel publica, in quibus injuria quæ reip. facta erat vindicabatur.* The private (as we obſerve before) belonged unto the *Prætori urbano & peregrino*, that is, the L. chief Juſtices, who did either give judgement themſelves, and then were they ſaid *judicare*, or they did appoint others to ſit in judgement, and e then were they ſaid *Judicium dare*: in the abſence of the *Prætor* there were ten call'd *decem-viri litibus judicandis*, i. e. *f ſuper lites judicandas*, who in the ſame manner as the *Prætor*, might either give judgement themſelves, or appoint others, for they were even in g one place and in ſtead of *Prætors*. Thoſe which either the *Prætor* or the *Decem-viri* did appoint to debate the caſes under them, were taken out of the *Centum-viri*, that is b out of certain Commiſſioners choſen for that purpoſe,

d Sig. de jure Rom. l. 2. c. 18

e Sig. de jud. l. 1 c. 7.

f Roſin. ant. l. 7. c. 29.

g Alex. Gen. dier. l. 1. c. 16.

b P. Ramus in 2. m. de lege Agrar.

pose, namely three out of every Tribe or ward: so that in all, the number of them amounted unto an hundred and five: but in a round reckoning they went for an hundred: and from a certain spear that was wont to be erected up in token of this court, hence was the *i* court called either *Prætoria Decemviralis*, or *Centumviralis hasta*. In some cases their form of acquittance was thus, *k Secundum illum litem do*, whence *l* Tully saith, *quo minus secundum eos lis detur, non recusamus*, that is, we do not deny but they may be acquitted. Those that were cast in their suit, were said *Lite vel causa cadere*. The publike cases belonged ordinarily (except the *Consuls*, the Senate, or the people did interpose their authority) unto those whom we called *Prætores Quæsitores*. Some have thought them to be the same with those whom *m Rosinus* calleth *Judices Quæstionum*, and that I think not altogether upon unsure grounds: first because most of these publicke cases which they termed *Quæstiones* had their *n* several *Prætors* to enquire them, whence they were called *Quæsitores*, & may in my opinion be called *Judices quæstionum*, especially seeing that those which would have them be different officers, cannot well shew the differences of their offices. Now as the Urban *Prætor* had a hundred Commissioners under him, so had these *Prætores Quæsitores*, certain Judges chosen *o* by the Urban, or forreign *Prætor*, when he took his oath: and that not according to his pleasure as many as he would, or whom he would, but sometimes more, sometimes fewer, sometime only out of the *Senators*, sometimes only out of the order of Roman Gentlemen, sometimes out of both, sometimes also out of other orders, *p* according as the law appointed, which oftentimes varied in those points. The Judges how great soever the number was, *q* were called *Judices selecti*, and were divided into several companies called *Decuriæ*. These Judges were upon any citation from any of the *Prætors*, to give their assistance in the Court upon the day appointed by the *Prætor*. Now the manner how they

i Sig. de jud. l. 1. c. 28.
k Sig. de jud. l. 1. c. 29.
l Cic. pro Q. Roscio.
m Rosin. ant. l. 2. c. 18.
n Sig. de jud. l. 2. c. 4.
o Sig. de jud. l. 2. c. 6.
p Sig. ibid.
q Sig. de jur. Rom. l. 2. c. 18

they did proceed in their judgement, followeth in the exposition of one of the Laws, and therefore I will refer the reader thither. Only let him by the way understand, that whereas *Tully* is quoted in every law, it is not so much for the proof of the law, as to signifie that he in that place maketh mention thereof. For the proof of the laws I refer the Reader to *Rosinus* and *Sigonius*; touching the expositions, my marginal quotations do prove sufficient.

CAP. 3.

De legibus religionem spectantibus.

Lex Papiria.

L. *Papirius Trib. pleb.* established a law touching the consecration or hallowing of places, that it should be unlawful for any to consecrate either houses, grounds, altars, or any other things, *Injussa plebis*, that is, without the determination of the Roman people in their assemblies, called *Comitia Tributa*, which determination was always termed *plebiscitum*. Cic. pro Domo.

Roscia lex.

L. *Roscius Otho. Trib. pleb.* preferred a law, that whereas heretofore the Roman Gentlemen did stand promiscuously with the commons at their theatral shews, now there should be fourteen benches or seats built for those Roman Gentlemen which were worth H. S. *quadraginta* that is, about 3125 *l.* of our English money. As for other Gentlemen, whose substance was under the rate, they had a certain place allotted them by themselves, with a punishment imposed upon them, if they offered to come into any of those fourteen benches. Cic. Phil. 2. Ir. pro. Mur.

Here we must note that this character *H. S.* standeth for a silver coin in *Rome*, called *Sestertius*, and is by *Rosinus* in this place improperly used for *Sestertium*; for this Character *H.S.* is by our printers false printed, the true character *r* being *L.L.S.* signifying *duas libras* (as the two *L. L.* do intimate) and *Semissem*, which is intimated by the [r] Fr. Matur. in Phil. 2.

the letter *S.* Where if *libra* doth signifie no more than the *Romans* coyn called *A.S.* then is this opinion touching the characters *L.L.S.* easie to be confirmed. For divers Authors ſ rendering a reaſon of the name *Seſtertius*, ſay it was ſo called *quaſi Semitertius*, that is, ſuch a coyn as containeth *Duos ſolidos aſſes & ſemiſſem.* This *Seſtertius* was ſuch a common Coyn among the *Romans*, t that *Nummus* & *Seſtertius* became at length one to be uſed for the other, u *Mille hujuſmodi ſeſtertii vel nummi faciunt unum ſeſtertium in neutro genere, & conficiunt plus minus viginti quinque coronas.* According to which rate, *quadraginta ſeſtertia* amounteth to 3125. and every particular *ſeſtertius* is according to this rate, in value three half pence farthing *q.*

ſ Ch. Hegendorphius in Verinam.

t P. Nannius in Verin. 5.

u Ch. Hegendorpeius in Verinam 5.m.

And here we may fitly obſerve the art of numbring by theſe *Seſterces*, which conſiſteth in three rules. Firſt, if the numeral or word that denoteth the number be a noun adjective agreeing in caſe, gender and number with the ſubſtantive *ſeſtertius*, then it ſignifieth preciſely ſo many *ſeſtertii*; for example ſake; *Decem ſeſtertii* do ſignifie ſo many times *l. ob qa. q.* 2. If the numeral being an adjective, and of a different caſe, be joyned with *Seſtertiûm* in the genitive caſe plural, then doth it note ſo many thouſand *Seſtertii*; For example, *Decem ſeſtertiûm* ſignifieth ten times 7. l. 16. s. 3. d. Thirdly, if the numeral joyned with *Seſtertiûm* be an adverb, then it ſignifieth ſo many hundred thouſand *ſeſtertii, ex. gra. Decies ſeſtertiûm* do ſignifie ten hundred times 7. l. 16. s. 3. d. Yea the numeral being an adverb, is ſometimes put ſimply by it ſelf, without the addition of any other word to ſignifie in manner, the genitive caſe *Seſtertium* being underſtood. For the better conceiving hereof the former example may be thus ſet down.

Decem

Decem seſtertii.	*valent*	10. *Seſtertios*	*De noſtro*	0000.l.10.s.6.d.*ob.q.*
Decem ſeſtertium.		10. *Milla ſuſtertium.*		0078. 02. 6. 0. 0.
Decies ſeſtertium.		10. *Centena. Millia ſeſtertium.*		78112. 10. 0. 0. 0.
Decies.				

Clodia lex.

Publius Clodius Trib. Pleb. made a law, by vertue whereof the Prieſt called *Peſſinuntius ſacerdos* (from the place where he did firſt exerciſe thoſe holy rites in the honour of the mother Goddeſs) ſhould be deprived of his Prieſthood, and the Temple built in the honour of this Goddeſs ſhould be beſtowed upon *Brotigarus* of *Gallo Gracia.* Cic. pro Sext. item de Aruſp. reſpon.

Domitia lex.

Cn. Domitius Abenobardus Trib. Pleb. enacted a law, that the Colledges of Prieſts ſhould not as they were wont, admit whom they would into the order of Prieſthood, but it ſhould be in the power of the people. And becauſe it was contrary to their religion, that Church-dignities ſhould be beſtowed by the common people, hence did he ordain that the leſſer part of the people, namely ſeventeen Tribes ſhould elect whom they thought fit, and afterward he ſhould have his confirmation or admiſſion from the Colledge. Cic. Agrar.

Lex incerti nominis de vacatione ſacerdotum.

Cicero in his orations mentioneth a law (not naming the author thereof) whereby the Prieſts were priviledged from their ſervice in all wars, except only in uproars or civil tumults, x and theſe priviledges were termed *Vacationes.* Cic. Phil. 8. & pro Font. x B. Latom. in Phil. 5.

CAP.

CAP. 4.
De civitate & jure civium Rom.

Porcia lex de civitate.

Cic. pro Rab. & ſæpe alias. M. *Porcius Trib. Plb.* eſtabliſhed a law, that no Magiſtrate ſhould beat any Roman Citizen with rods.

Lex Sempronia.

Cic. pro Cluentio, & ſæpe alias. *C. Sempronius Gracchus Trib. pleb.* preferred a law whereby he diſabled the Magiſtrate from puniſhing any Roman Citizen either with rods or with his ax, that is, with death, without the allowance of the people: Secondly, by vertue of this law, if any Magiſtrate did condemn any Roman Citizen *Indicta cauſa*, he ſhould be liable to the judgement and cenſure of the people. A third clauſe to this law was, *Ne quis coiret, conveniret, quo quis judicio publico circumveniretur Indicta cauſa.* He was ſaid to be condemned *cauſa indicta*, which was condemned before he had ſpoken for himſelf. Although *y Indicere pro non dicere, ſicut & invidere pro non videre vix repereatur, tamen indictum & inviſum, pro non dicto & non viſo, ſæpe reperiuntur.* *z* They were properly ſaid *Coire*, which did work under hand againſt a man, that he might be condemned; we may tranſlate it in this place to Conſpire. *a* The verb *Circumvenio* doth commonly ſignifie as much as *Circumſcribo*, to deceive or cheat one: but in this place to oppreſs one with falſe judgement procured by bribery or conſpiracy.

y P. Ramus in orat. pro Rab.

z F. Sylv. in orat. pro Cluentio.

a J. Camer. in orat. Cic. pro L. Flac.

b F. Sylv. in orat. pro Cluentio.

Lex Papia de peregrinis.

Cic. pro Balb. The priviledges of the Roman Citizens became ſo great, that almoſt all the inhabitants of the confederate nations, would forſake their own dwelling, and uſe means to become free deniſons in the Roman City; inſomuch that the Embaſſadors of the allies and aſſociates did grieve much and complain of the loſs of their inhabitants: whereupon a law was made by *Papius*, that all forreigners and ſtrange comers ſhould be expelled

out

out of the City. To the ſame effect was *Lex Junia*, and alſo *Licinia Mutia de peregrinis*: the firſt being preferred by *Mar. Junius Pennus*, the ſecond by *L. Licinius Craſſus*, and *Qu. Mutius Scævola.* Cic. offic l. 3.

Servilia lex de civitate.

C. Servilius Glaucia preferred a law, *Ut ſi quis Latinus*, if any of the Latin aſſociates could prove an action of bribery againſt a Senator, then ſhould he be made a freeman of the City. Cic. pro Balb

Quis Latinus.] Here we will obſerve with *c Sigonius*, that the Latin people were not always called *Latini*, & *Italici*: *ſed & ſocii, & Latini ſocii, & ſocii nominis Latini; & ſocii nomenq; Latinum, & ſocii ab nomine Latino, & ſocii ac Latinum dicti ſunt.* c Sig. de jur. Ital. l. 1. c. 2.

Sylvani & Carbonis lex de peregrinis.

Sylvanus & Carbi being *Tribuni pleb.* preferred a law, *Ut qui fœderatis civitatibus adſcripti eſſent ſi tum, cum lex ferebatur, in Italia domicilium habuiſſent, ac ſexaginta diebus apud Prætorem profeſſi eſſent, cives Romani eſſent.* Cic. pro Archia.

Adſcripti.] For the right underſtanding hereof we muſt note, that there were *d* two ſorts of Citizens; ſome *cives nati*, that is, Citizens by birth, others *civitate donati*, that is, Citizens by donation or gift; who becauſe they were added unto, and regiſtred with the firſt ſort of Citizens, were hence called *Adſcripti cives.* d F. Sylv. in orat. pro lege Manil.

Profiſſi apud Prætorem.] This verb *profiteri* is ſometimes *e Comitiale verbum*, and ſignifieth as much as *profiteri nomen*, that is, to render ones name unto a Magiſtrate; and this conſtruction it beareth in this place. e P. Ramus in orat. Cic. Agr. 2.

Lex Cornelia de Municipiis.

L. Cornelius Sylla preferred a law, that all *Municipall* States ſhould loſe their freedom in the *Roman* City, and alſo their priviledge of having commons in the *Roman* field. Cic. pro Dom

Gellia Cornelia lex.

L. Gellius Publicola, and *Cn. Cornelius Lentulus* being *Conſuls*, Cic. pro Balb

Consuls, decreed a law, that all those private persons upon whom *Cn. Pompeius* in his wisdom should bestow the freedom of the *Roman* Citizens, should ever be accounted free Denisons.

CAP. 5.

De legibus ad Comitia spectantibus.

Ælia lex.

Cic. in ultis in locis.

Q. Ælius Petus asked a law in time of his Consulship, *ut quoties cum populo ageretur*, that is, as often as any *Roman* Magistrate did assemble the people to give their voices, the *Augures* should observe signs and tokens in the firmament, and the Magistrate should have power *obnunciandi*, & *interdicendi*, that is, to gainsay and hinder their proceedings.

Ageretur cum populo.] Here he may note the difference between these two phrases, *Agere cum populo*, and *agere ad populum*; ƒ He was said, *Agere ad populum*, whosoever made any Speech or Oration unto the people, and this might be done upon any day indifferently. But then only was it said, *Agi cum populo*, when the people were assembled to the giving of their voices by a lawful Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done g but upon one of those days which they called *Dies Comitialis*.

ƒ Agel. l. 13. c. 14.

g Festus de ver. dier. ratione ad fin. Ovid. Fast. Cic. in suis orat. sæp.

Fusia lex.

Pub. Furius sive Fusius Philus, being Consul, ordained a law, that upon some certain days, although they were *dies Fasti*, that is, Leet-dayes, yet no Magistrate should summon an assembly.

Clodia lex.

Cic. pro Sext.

P. Clodius Trib. pl. abrogated both those former laws, making it unlawful to observe signs and tokens in the heavens, upon those days when the *Roman* people were to be assembled: And secondly, making it lawful to

assemble

assemble the people upon any Leet-day whatsoever.

Gabinia lex.

At first, for many years the *Roman* people in their assemblies did suffrage *Viva voce*, at which time many of the inferiour sort gave their voices contrary to their wills, fearing the displeasure of those that were of higher place. For the better help in this point, *Gabinius* asked a law, that the people in all their elections might not suffrage *Viva voce*, but by giving up certain tablets, the manner whereof hath been formerly shewn; whence both this, and all other laws tending to this purpose have been called *Leges tabellariæ.* Cic. 3 de leg.

Cassia lex.

After *Gabinius*, *Cassius* also preferred a law, that both the Judges in their judgments, and the people in their assemblies should suffrage by rendring such tablets: *b* but this is to be understood only of those assemblies by Wards, called *Comitia Tributa*: wherein they treated of mulcts and mercements. Cic. in Lælio. *b* Rosin. ant. l. 8. c. 3.

Cœlia lex.

Cælius Trib. pl. established a law, that not only in mulcts and mercements, but also *In perduellionis judicio*, that is, in taintments of treason against any person of State, (namely such as were *sacrosancti*) or against the Common-weal, this *Tabellary* liberty should have place, when the people should judge thereof. Cic. 3. de leg.

In perduellionis jud. *i* This word *perduellis* doth signifie an enemy unto the State, a traitor; and hence cometh this word *perduellio*, signifying not only the crime of treason, but the punishment also due thereunto, *k* *Si crimen quod erat gravissimum inter crimina, nempe imminuta majestatis; si pœna, quæ erat acerbissima, nempe mortis.* *i* Cœl. Sec. Curio in orat. pro M. Cœl. *k* Sig. de jud. l. 3. c. 3.

Papiria lex.

C. Papirius Carbo Trib. pl. perswaded that not only in their elections, but in the proposal of their laws also this suffraging by tablets should be used. Cic. de leg. 3

Sempronia lex.

Cic. multis in locis. *C. Sempronius Gracchus Trib. l.* preferred a law, that the Associates of *Latium* should have as great right of suffraging as the *Roman* Citizens.

Manilia lex.

Cic. pro Mur. *C. Manilius Trib. pl.* preferred a law, that all those who were *Libertini*, in what Tribe or Ward soever, should have the right of suffraging.

CAP. 6.

De Senatu & Senatoribus.

Claudia lex.

Cic. Verr. 7. Q. *Claudius Trib. pl.* perswaded a law, that no Senator or Senators father, should have any ship which should contain above three hundred of those measures called *Amphoræ*, deeming that sufficient for the transportation of their Corn from the *Roman* field. Secondly, by this law the Senators were forbidden the use of trading.

l Alex. Gen. der. l. 2. c. 20. *Amphora.*] *l Alexander Neopol.* observeth two sorts of these measures, namely, *Amphora Italica*, containing two *Urnas*, and *Amphora Attica*, containing three *Urnas*: every *Urna* containing two Gallons and a Pottle. This in probability is understood of the *Italian Amphora*.

Tullia lex.

Cic. Phil. 1. When as a custom had grown, that many of the Senators having by special favour obtained *Liberam legationem*, upon all occasions would abuse that their authority, procuring thereby their private gain, and the encrease of their own honour, then *M. Tullius Cic.* being Consul, laboured quite to take away these kinds of embassages, which though he could not effect, yet thus far he prevailed, that whereas in former times this *Libera legatio* being once obtained, was never (not through a mans whole life) taken from him again: yet afterward

ward this authority ſhould never be granted to any, longer than the ſpace of one whole year.

Legatio Libera.] We may obſerve in ancient Authors three ſeveral kinds of embaſſages: The one, which is a meſſage ſent from the Prince or chief Governour of one Country unto another, and that is expreſſed commonly by this one word *Legatio*, without any addition thereunto; ſometimes it is called *Legatio mandata*. The ſecond, which is when one purchaſeth the title of an Embaſſador, thereby the more honourably to perform ſome vow made, whence it was called *Legatio votiva*. The third is the office or title of an Embaſſador, granted upon ſpecial favour unto a Senator, that he might with the greater authority proſecute his private ſuits in law, or gather up his debts in that Province whither he went; this laſt was termed *Legatio Libera*. All three ſorts are briefly touched by *m Toxita*.

m M. Toxit. in orat. Phil. 1.

CAP. 7.
De Magiſtratibus.

L. *Cornelius Sylla* being *Dictator*, made a law, that all ſuch as would follow him in the Civil War, ſhould be capable of any office or magiſtracy before they came unto their full years. A ſecond part of this law was, that the children of ſuch as were *proſcripti*, ſhould be made uncapable of the *Roman* Magiſtracies. Cic. in Piſon.

Before they came to their full age.] For *L. Villius* preferred a law, whereby he made ſuch as were under age, to be uncapable of the City-preferments, and thoſe he accounted under age, who had not attained unto that number of years which he had preſcribed each ſeveral office: *n* and this law was termed *Lex annalis*. *n* P. Ramus in Agrar. 2.

Proſcripti were ſuch perſons as were baniſhed. For the fuller underſtanding look Proſcription in the tract of Puniſhments. *Julius Cæſar* did contrary to his law, *Admiſit ad honores & proſcriptorum liberos*, *Sueton. Jul.* 41.

Hircia

Hircia lex.

Cic. Phil. 13. *A. Hircius* made a law, that all those that followed *Pompey*, should be made uncapable of all places of office.

Cornelia lex.

Cic. Phil. 2. *L. Cornelius Sylla* finding the *Prætores*, that is, the Chief Justices not to give sentence always according to equity, yea sometimes to go quite contrary to their own Edict, made a law, that every Chief Justice should administer justice according to that his first Edict hanged up at the beginning of his office. An addition unto this law was, that the Chief Justice should not be absent out of the City above ten dayes.

Clodia lex.

Cic. pro Sext. In former times it was lawful for either of the Censors to censure whom he pleased, and how he pleased, except his fellow-Censors did plainly gainsay it, and make opposition therein. But many abusing this their authority, *P. Clodius Trib. pl.* made a law, that the Censors should not over-skip any in their election of Senators; neither should they brand any with disgrace, except such as had been accused unto them, and been condemned by them both.

Valeria lex.

Cic. Verrin. 4. The office of a Dictator at the first institution continued but six months space, until *L. Valerius Flaccus* being *Interrex*, in the vacancy of the Consuls, preferred a law, that *L. Cornelius Sylla* should be a perpetual Dictator.

Cornelia lex.

Cic. 3. de leg. *L. Cornelius Sylla* in the time of his Dictatorship, did by vertue of a law preferred by him, clip the authority of the *Tribuni pl.* disabling them of bearing any office after the expiration of their Tribuneship, taking away their authority of preferring laws, of using any solemn speech, or publick oration unto the people, of hearing appeals, of hindring any Statute or Decree tending to the hurt of the policy.

CAP.

CAP. 8.
De legibus.

Cæcilia Didia lex.

Q. *Cæcilius Metellus, & Titus Didius* being Consuls, forbad that *Una rogatione*, that is, in one and the same bill many things should be proposed unto the people; lest by that means, the people by granting the whole bill, might grant something which they would not, or in denying the whole bill, might deny some particular clause, which by it self they would have accepted. Moreover these two Consuls ordained, that before a law should be asked in the assemblies, it should be promulged, that is, hanged up to the publick view of the people three Market-days. Cic. pro dom. sua ad pontif.

Junius Lacinia lex de trinundino.

Junius Silanus, and *L. Licinius Murena* being Consuls, established that law of *Cæcilius* and *Didius*, annexing a more severe punishment for the breakers thereof. Cic. Phil 5.

Clodia lex de intercessione.

P. Clodius Trib. pleb. made a law, that the *Trib. pleb.* should have full authority and power to propose laws: neither should they be hindred by the *Intercession*, that is, gain-saying of any. Cic. pro Sext.

Licinia Æbutia lex.

Licinius and *Æbutius* being *Trib. pleb.* ordained, that if any preferred a law touching the oversight, the charge or cure of any business in hand; neither he, nor any fellow-officer with him, nor any allied unto him, should have this oversight or charge committed to him. Cic. pro dom. sua ad pontif.

CAP. 9.
De Provinciis.

Sempronia de Provinciis.

C. *Sempronius Gracchus Trib. pleb.* ordained, that the Senate every year before the election of their Consuls, Cic. de prov. consularibus.

should

ſhould as it ſeemed beſt to them, appoint out what Provinces the Conſuls now to be elected, ſhould after the expiration of their office go unto; for which Provinces afterward the Conſuls deſigned ſhould caſt lots. Another clauſe to this law was, that whereas in former times by a decree from the Senate, it was lawfull for the Tribunes to hinder the *Roman* aſſemblies, henceforward they ſhould have no authority.

Cornelia de Provinciis.

Cic. ep. 5. ad Lentul.

L. Corn. lius Sylla being Dictator, preferred a law, that whoſoever went into a Province *cum imperio, tamdiu illud imperium retineret, quoad in urbem reverſus eſſet*: whereas in former times his rule and government was to be reſigned at the expiration of a ſet time appointed; yea although no ſucceſſor were ſent, yet could he not continue there *cum imperio* without a new Comiſſion. A clauſe added unto this Law was, that after the coming of any new Preſident or Governour into the Province, the old Provincial Preſident ſhould depart within thirty dayes.

p Sig. de jure Prov. l. 3 c. 13

Eſſe cum imperio] that is, *p Exercitui praeſſe, q vel habere jus adminiſtrandi, & ſuis auſpiciis gerendi belli.*

Titia lex de Provincia.

q Sig. ejuſd. l. c. 6.

Cic. pro L. Mur.

r Melanct. in orat. pro Mur.

Titius or (*r* as ſome ſay) *Decius* preferred a law, that the Provincial Treaſurers called *Queſtores*, ſhould caſt lots for their Provinces: whence *Tully* in the Oration now quoted, inferreth, that although *Oſtia* being the better Province fell upon *Servius Sulpitius*, yet inaſmuch as it fell *Lege Titia*, that is by caſting lots, he could not therefore challenge any ſuperiority above *L. Murena*, *ſed utriuſq; nomen conſedit in Quaeſtura*, that is, their fame and renown was equal in their Queſtorſhip.

Julia lex de Provinciis.

Cic. Phil. 1.

C. Julius Caeſar eſtabliſhed two laws touching the *Roman* Provinces: one, that no *Praetor* ſhould govern a Province above twelve months; nor *Procenſul* above two year. The ſeveral heads or clauſes of his ſecond law could

could not all be found out, but those which have come to light are these: First, that *Achaia*, *Thessalia*, and all *Græcia* should be free; neither should any Roman Magistrate sit in judgement in those Provinces (*Cic. pro domo.*) Secondly, that the Provincial Governours and their *Comites*, that is, assistants or attendants, should have hay, and all other necessaries provided them on the way, by those Towns and Villages through which they passed. (*Cic. in Pison.*) Thirdly, that the Provincial Magistrates at their departure should leave a book of their accounts in two Cities of their Province, and likewise should send a copy of their accounts unto the Roman Treasure-house. (*Cic. in Pison.*) Fourthly, that it should neither be lawful for the people to bestow, nor for the Provincial Magistrate to receive *Aurum coronarium*, unless it were in a triumph. (*Cic. in Pison.*) Lastly, that it should be unlawfull for the Provincial Magistrate, without the allowance of the People or the Senate, to depart out of their Province, to lead forth any army, to wage war, or to go into any forraign Country. (*Cic. in Pison.*

Aurum Coron.] ſ There was a custom among the *Romans* in times of victory, to present unto the L. General Coronets of Gold, instead whereof the after-ages presented a certain sum of money, which was thence called *Aurum coronarium.* ſ Lipſ. de Mag. Rom. l. 2. c. 9.

Vatinia de Provinciis.

P. *Vatinius Trib. pleb.* procured a law, that *Julius Cæsar* should have the government of *Gallia Cisalpina* and *Illyricum* for five years space, without any decree from the Senate, or casting lots. Secondly, that they also should go as Legates, or L. Deputies unto *Cæsar*, without any decree from the Senate, whosoever were nominated in that law. Thirdly, that *Cæsar* should receive money out of the common Treasure-house towards having an army. Lastly, that he should transplant a Colony unto a certain town of *Cisalpina Gallia*, called *Novocomum.* Cic. pro Balb.

Clodia de Provinciis.

Cic. pro dom. *P. Clodius* being *Trib. pleb.* procured a law, that the government of *Syria*, *Babylon* and *Persia*, should be committed to *Gabinius*; the government of *Macedonia*, *Achaia*, *Thessalia*, *Grecia*, and all *Boætia*, should be committed unto *Piso*; and they should receive together with an army, money out of the common Treasury towards their journey.

Clodia altera de Cypro.

Cic. pro Sext. *P. Clodius* preferred another law, that the Island *Cyprus* should be made a Province. That *Ptolomeus* the King of *Cyprus* sitting in his purple, with his Scepter and other his princely ornaments, *Præconi publico subjiceretur, & cum bonis omnibus publicaretur*, that is, should himself with all his goods be sold by a common Crier. That *M. Cato* being then Treasurer, *cum jure Prætorio, adjecta etiam Quæstore*, having by commission the office of a L. chief Justice, and another Treasurer to accompany him, should be sent unto the Island *Cyprus*, both to make sale of the Kings goods and estate, and also to bring back the money. Lastly, it was decreed by this law, that those who lived in exilement at *Byzantium*, being condemned for some capitall crime, should be brought back unto the City under the name of Romans.

Præconi publica subjiceretur:] For the better understanding of that phrase, we are to understand the manner of port-sale among the Romans; which we may read in *Sigonius* thus. Those things were rightly sold in port-sale, which were publikely sold *per Præconem sub hasta*, that is, by the cryer under a spear sticked up for that purpose, and some Magistrate making good the sale by delivery of the goods. Whence I take, *publico præconi subjici*, and *hastæ subjici*, to signifie one and the self-same thing, namely, to be set at sale: and † *Cicero* useth almost the self-same phrase, *bona C. Pompeii, veci acerbissimæ subjecta præconis*. This kind of sale was termed *Auctio*: because, as *Sigonius* saith in the same place, to him the goods

† Cic. Phil. 11

goods were sold, *Qui plurimum rem augeret*, that is, which would bid most for it: and hence is the seller thereof termed *Auctor*, as *u Cic. Id quod a malo auctore emissent*, that is, that which they had bought of one, which had no authority to sell: and from this custom of setting up a spear in this kind of sale, this word *Hasta* alone is used, to signifie port-sale, as *x Hasta Cæsaris*, the sale of *Cæsars* goods. Those who bought these goods, *y Tully* calleth *Sectores*, *z quia spem lucri sui sectabantur*. In such kind of sales, a catalogue, or note of the goods to be sold was hanged up in tables, for the publick view of passengers. Whence such goods were termed *suspensa bona*. And if any friend would redeem the goods, then did he *dejicere libellos*, that is, put in bands and security to answer the matter. The phrase is used by *Tully Cic. pro Quintio*. And also by *Seneca*, *de benef. lib.* 4. *c.* 12. *Suspensis amici bonis libellum dejicio, creditoribus ejus me obligaturus*. It is thus explained by *Turnebus*, *adv. lib.* 12. *c.* 9. If the sale proceeded on, then such as proposed to be chapmen signified their desire by holding up their finger: whence *Digitum tollere* signifieth the desire of buying such goods. *Alex. ab Alex. lib.* 4. *cap.* 26.

u Verrin. 7.

x Cic. Phil. 2.

y Cic. in Ver.

z Cic. denat. l. 3. c. 34.

CAP. 10.
De Legibus Agrariis.

THose laws were termed *Leges Agrariæ*, which did concern the division of the publick, or common fields: And these were either given by *Romulus* and other Kings, or taken from the enemies, or from private men which had made inclosures: or lastly, bought out of the common Treasury, *a Vide Sigon.*

Sempronia lex Agraria.

b Titus Sempronius Gracchus Trib. Pl. preferred a law, which forbad that any of the *Romans* should have to his own part above five hundred acres of the common fields the one half of which it was lawful for his son to enjoy.

a Sig. de jur. Ital. l. 2. c. 2.

b Cic. pro Sext.

joy. If it had ſo happened, that any ſhould enlarge theſe common fields, three ſurveyers called the † *Triumviri agro dividendo*, did mark out which was common, which private ground. Moreover it was by this law provided, that the money of King *Attalus*, who made the people of *Rome* his heir, might be beſtowed upon thoſe citizens, which had by this law obtained a part of the common fields, to the buying of inſtruments for husbandry. Moreover that the Kings lands ſhould be farmed out at a ſet rent by the *Cenſors*, whence an yearly tribute ſhould be paid to the people.

e Sig. de jur Ital. l. 2. c. 2.

Cornelia lex.

Cic. in Rul. *L. Cornelius Sylla* being Dictator, preferred a law, that all the fields of thoſe *Romans* which he had baniſhed ſhould be common. This publication is to be underſtood chiefly of thoſe fields in *Thuſcia*, near unto the City *Volater*, and the City *Feſula*, which grounds *Sylla* divided amongſt his ſouldiers.

CAP. 11.

De frumentariis Legibus.

Sempronia Lex.

Cic pro Sext. T. *Sempronius Ghracchus* being Tribune of the Commons, provided that a certain quantity of corn ſhould monthly be given unto the poor ſort at a low price, *Semiſſe & Triente*; that is, about ſixpence farthing a buſhel: Hereupon was there a place appointed in *Rome*, for the keeping of this common corn, together with certain laws hanged up there, called *leges frumentariæ*. This place was called c *Horrea Sempronia*. The quantity of corn laid up in every City for this purpoſe is by the latter Lawyers termed *Canon*: as *Canon Alexandrinus*, *Canon urbi Romæ*, *&c. vide Stuck. de conviv. lib. 1. cap. 35.*

c Rebuff. ant. l. 8. c. 21.

Semiſſe & triente] It appeareth by the next law that *ſemiſſis* in this place muſt ſignifie the ſame as *ſenis æris* doth there: Whereby we may note, that *ſemiſſis* doth not always ſignifie the half part of the *Roman* coyn called

As,

As, but sometimes it signifieth a greater coyn, valuing almost our six pence.

Clodia lex.

P. Clodius Trib. Pl. ordained, that that corn which heretofore was sold to the poor *senis aris & trientibus in singulos modios*, that is, for six pence farthing a bushel, should here after be given *gratis*, the charge and oversight of this dole was committed to *Sext. Claudius*. Cic. pro Sext. in Pison.

Terrentia Cassia.

M. Terentius and *C. Cassius* being Consuls, preferred a law, *Uti alteræ decumæ a provinciis coemeretur, pretio in singulos modios* H. S. *trium constituto: Item ut civitatibus æqualiter imperaretur, pretio in singulos modios* H. S. *quatuor constituto*. Cic. Verrin. 3. & 7.

For the better understanding of this law, we must note a threefold tithe paid by the Provinces. The first was the tenth part of the grain growing in the province to be paid in *gratis*, and that was properly called *Decumæ*, or *frumentum Decumanum*, and those that took this tithe to rent, were called thence *Decumani*. A second sort of tithes was a certain quantity of corn taken up for the L. President or chief governour of the Province, to keep his house, and that was called *Frumentum æstimatum*, that is, corn gathered by the way of taxation: for so this word *æstimo* coming from *æs* doth signifie, *e Est autem æstimare ab ære dictum, id quod vulgo dicunt appreciare & taxare*. The third sort of tithes, was when the Senate finding scarcity of corn in *Rome*, did enjoyn the Provinces to sell them a quantity of corn at a price set down by the Senators themselves, and this corn sold upon injunction, if it was paid but once in the year, it was termed *Frumentum emptum*; but if in the same year a second sale was enjoyned them, then they called that second pay, *Frumentum imperatum*. In the first clause of this law by [*alteræ decumæ*] is meant *Frumentum emptum*; in the second clause by these words [*civitatibus æqualiter imperatur*] is understood *Frumentum imperatum*.

d Sig. de jur. prov. l. 1. c. 1.

e P. Sylv. in orat. pro Cluentio

Lex

Lex Hieronica.

Cic. Verr. 4. *Hiero* King of *Sicily* obtained a law, wherein was set down the quantity of corn, that the *Aratores* or country farmers should pay unto the *Publicani*, that is, those which received the tithes, together with the time of payment, and this price agreed upon.

CAP. 12.

De legibus sumptuariis sive cibariis.

IN antient times there was a commendable frugality among the *Romans* in their feast, but after ages grew to immoderate excess therein; so that whole Goats and Boars, &c. were set on the table at one time. Such a hog thus dressed *Cincius* was wont to call *a Porcum Trojanum*, alluding to the *Trojan* horse; because the belly thereof was stuffed with variety of fowl and rabbets, and such like, as the *Trojan* horse was with armed men. This kind of excess *Tiberius Cæsar* labored to redress, by serving at his table cold half-eaten dishes at solemn feasts, using this proverb, *b Dimidiatus aper omnia eadem habet quæ totus*. Hence also men of severe discipline enacted laws termed *Leges sumptuariæ*, or *Cibariæ*, which prescribid a moderation, not onely for the charges in their greatest feasts, that they should not exceed such and such sums of money, but also for the guests to be invited, that they should not exceed such a number. The chief of these laws were these that follow.

a Struck. de conviv. l. 3. c. 3.

b Suet. Tib. 34

Lex Orchia.

C. Orchius being Protector of the Commons, by the consent of the Senate, the third year before *Cato* was *Censor*, preferred a law, whereby he only moderated the number of guests, without any limitation of the charges or superfluous expence at feasts.

Lex Fannia.

Twenty two years after *Orchius* his law, *C. Fannius* being Consul, enacted another for the moderating of expences,

pences, allowing *Non plures denis assibus* to be spent in their ordinary feasts: But upon those more solemn feasts dedicated unto *Saturn*, and from thence called *Saturnalia*; likewise when any publick games were exhibited by the Roman people, he then allowed *Centum asses*, ordaining that no other fowl should then be dressed but onely one hen, and that not fatted for the purpose.

Non plures denis assibus.] The *Roman* coyn *As* was so called *c quasi æs*, because the matter thereof was *brass*; *d* at first it consisted of a full pound weight; afterward in the first *Punick* war, by reason of the scarcity of money, they made of every pound of brass six of those coyns, each valuing as much as they did at first. In the second *Punick* war, there were twelve made of every pound: at last by vertue of a law, which *Papirius* enacted, four and twenty were made of a pound: and so they continued; the value always remained the same, *videl.* ob. q. so that to allow but ten of these to a feast, seemeth a matter altogether uncredible; but consider with the frugality, the cheapness of those times, it may be granted for a truth; *e* for ten of these were the price of a sheep, and an hundred the price of one ox.

c Varro. l. 4. de ling. Lat.
d Plin. l. 35. c. 4.
e A Gel. 13. c. 2.

Lex Didia.

Eighteen years after *Fannius*, *Didius* ordained that the former sumptuary laws should be of force, not only in *Rome*, but throughout *Italy*; Moreover that not only the feast-maker transgressing, but all the guests, should be liable to the penalty.

Lex Licinia.

P. Licinius Crassus preferred a law in manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his law being now antiquated, than made a new.

Lex Cornelia.

Cornelius Sylla being Dictator, ordained a law for the price of meats, so that he was thought by cheapness of victuals to increase rather than to restrain superfluities at feasts.

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Lex

Lex Antia.

Antius Restio preferred an usefull law to moderate expences in feasting, which notwithstanding was violated, and in a manner abrogated by the contrary practice of the Citizens in general. For which cause, *Restio* afterward being invited, would never come to any feast, because he would not be an eye-witness of the contempt of that law which himself had caused. If any desire to see more laws of this nature, let him read *Suet. convic. l. 1. c. 3. Aul. Gel. l. 2. c. 24.* And *Macrob. Saturn. l. 3. cap. 17.*

CAP. 13.

De re militari & bellis.

Gabinia lex.

Cic. pro lege Manilia. A. *Gabinius Trib. pl.* preferred a law, that the managing of the war against the Pirats should be in such manner committed unto *Pompey* for three years space, that over the whole Sea between *Hercules* his Pillars, and in the Maritine Provinces unto the four Hundredth *Stadium* from the Sea, he should have power to command any Kings, L. Presidents, or whole Corporations to furnish him with all things necessary to that war.

Manilia lex.

Cic. pro leg. Manilia. *C. Manilius Trib. pl.* perswaded a law, that the managing of war against *Mithridates* should be committed unto *Cn. Pompeius*: That the whole Province where *L. Lucullus* ruled, together with his whole army should be resigned unto him: Moreover, that *Bithynia* where *Glabrio* ruled should be added, together with all those bands and forces which he had upon the Sea against the Pirats, and all those Provinces over which the law *Gabinia* did entitle him Governour, as *Phrygia*, *Licaenia*, *Galatia*, *Cappadocia*, *Cicilia*, *Colchis superior*, and *Armenia*.

CAP.

CAP. 14.

De Tutelis.

THis word *Tutela* doth signifie a wardship, guardianship, or protection of a child in his nonage: whereof *f Camerarius* observeth four sorts, and we may with *Peditarius* add the fifth. Either the overseers were appointed by will; or else the next of the kin were overseers; or the Magistrate did appoint whom he thought fit: and these three sorts *g Omphalius* calleth thus: the first *Testamentariam*, the second *Legitimam*, the third *Dativam*. The fourth sort *Camerarius* calleth *Tutelam fiduciariam quæ eorum est, qui emancipati desiissent esse agnati*. The fifth *b Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of administration is committed to others, but yet certain chief overseers were appointed to see the will performed, who were called *Tutores honorarii*. *i* Where we must note, that the law provided overseers, not for children under age only, but for women also.

f I. Camer. in orat. pro L. Flacco.

g I. Omphal. in orat. pro Cœcinna.

b Pellitarius pro Cœcin.

i Cic. pro Mur.

Emancipati desiissent esse agnati] By the Roman law every son was in such subjection unto his father, that before he could be released of this subjection, and made free, he should be an imaginary sale *k* be sold three times by his natural father to another man, who was called by the lawyers *l Pater fiduciarius*, that is, a father in trust: yea and he bought again by the natural father, and so manumissed by him, and then he became free. The form of this kind of sale, or alienation, is set down more at large in the explanation of one of the laws that followeth, with an example not much unlike this. This imaginary sale was called *Mancipatio*; the children thus alienated from the father were termed *Emancipati*; this form of setting free was termed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus; That when any goods did fall unto a child thus

k Vid. leg. 12. tabul.

l Sig. de jure Rom. lib. 1. cap. 1.

alienated, by the death of his father, then should not the oversight of this child fall unto the next of the kin, termed *agnati*, but *Quoniam de fiit esse agnatus*, that is, because he had in a manner lost his alliance with his kindred, therefore should the oversight of the child belong unto the father in trust, termed *Pater fiduciarius*, whence the guardianship it self was called *Tutela fiduciaria*.

Letoria lex.

Cic. de offic. This law made by *Letorius*, provided that there should be overseers appointed for those which were distracted, or did prodigally waste their patrimony. For, as it appeareth by the common adage, *Ad Agnatos & Gentiles deducendus est*, they did account all prodigals mad men: they meaning no more by that, than we do by our English proverb, when we say of a Spend thrift, Let him be begg'd for a fool. The reason of their adage was, because if any were distracted, by the Roman law his wardship fell *Ad Agnatos & Gentiles*, that is, to the next of the kindred.

CAP. 15.
De Testamentis.

BEfore we descend unto the laws themselves, we will explain those three divers sorts of Wills in use amongst the Romans; namely, *Testamentum calatis comitiis*: which was so called, because twice in the year in time of peace the Roman people assembled themselves together, to this end and purpose, that if any would make his Will, the whole people might bear witness thereunto: These assemblies were termed *Calata comitia*. Secondly, *Testamentum in procinctu*, that is, when a souldier in time of war, ready to give battel, did call out three or four of his fellows, and in the audience of them did by word of mouth pronounce his last will and testament. Thirdly, *Testamentum per emancipationem familiæ*, that is, by making over his goods and possessions under

a feigned form of ſale, unto a ſecond party, called *Hæres fiduciarius & imaginarius*, i.e. an heir in truſt, who ſhould afterward reſign them unto the true and lawful heir: and this imaginary kind of ſale was performed with certain ſolemnities *circa æs & libram*, and alſo the ſale it ſelf was ſometimes called *Nextus*, as likewiſe *Emancipatio*. Hence was the will ſometimes called *Teſtamentum per æs & libram*, ſometimes *Teſtamentum per nexum*. For the proof of this which hath been delivered, touching the three ſorts of wills, I Will refer the Reader to *m Sigonius*.

m Sig. de jur. Rom. l. 1 c 12 Cic. Ver. 3.

Furia lex.

C. Furius Trib. pleb. made a law, that it ſhould not be lawful for any to give away in a way of legacy unto any, except to the kinſmen of him which manumiſed him, or ſome other certain perſons, *ſupra mille aſſes*, that is, above fifty ſhillings or thereabout, there going two *Aſſes & ſemis* to the making of one *Seſtertius*.

Voconia lex.

Q. Voconius Saxa Trib. pl. tulit legem, Ne qui cenſus eſſet, virginem neve mulierem ſupra quadrantem ſuorum bonorum hæredem inſtitueret, pluſve cuiquam legaret, quam ad hæredem, hæredeſve perveniret. Cic. Ver. 3.

Cenſus.] This word *Cenſus* doth ſometimes ſignifie all ſuch as have tendred the juſt valuation of their eſtate unto the Cenſors: and then *Incenſus* is oppoſite unto it; ſignifying ſuch an one as hath not rendred his eſtate or name to be regiſtred by the Cenſors. But in this place *Cenſus* is taken for ſuch a rich man whoſe eſtate was in the Cenſors book valued at one hundred thouſand *Seſterces*. (*Vid. Aſconium in Verrem* 3.)

Supra quadrantem ſuorum bonorum.] That is, no woman ſhould be heir to more than one quarter of ſuch a rich mans goods. For the right conceiving of this, we muſt note with *n Latomus*, that the whole inheritance (were it never ſo great) was termed *As*, and that was divided into twelve parts, which the lawyers called *Unciæ*,

n Bart. Lat. in orat. pro Cecinna.

Duæ unciæ dicebantur Sextans, tres Quadrans, quatuor Triens, quinq; Quincunx, ſex Semiſſis, ſeptem Septunx, octo Beſſis, novem Dodrans, decem Decunx, undecem Deunx, Totum As, ut dictum eſt. Again, every *Uncia* was devided into ſix parts, called *Sextulæ*: *Duæ ſextulæ Duellam, tres Semunciam faciunt.* So then according to the lawyers (as *o Alexander* obſerveth) if there were one heir alone inſtituted, he was termed *Hæres in Aſſem totum inſtitutus*: if otherwiſe there were many co-heirs, then was it according as the Teſtator did appoint. Some were *ex Deunce hæredes*, that is, heirs to eleven parts of his goods, there being but one part beſtowed from him: ſome were *hæredes ex quadrante*, that is, heirs to one quarter of his goods: others were *hæredes ex ſemuncia*, that is, they had the four and twentieth part: others were *ſextulæ aſperſi*, that is, they had the threeſcore and twelfth part of the whole *As*, that is, of the whole inheritance, be it more or leſs, *&c.* Here we muſt underſtand that there is great difference between theſe two phraſes, *Inſtitui hæc in totum Aſſem, & ex toto Aſſe.* For all thoſe which we nominated *Hæredes*, whether it were *ex Dodrante, Quadrante, vel Semuncia*, or howſoever, yet were they termed *Hæredes ex toto Aſſe*, that is, they were not *Legatarii*, ſuch as received legacies. Now none can be ſaid *In totum Aſſem inſtitui*, but he which is the alone and ſole heir unto the whole.

o Alex. Gen. dier. l. 1. c. 1.

CAP. 16.

De uſu-capione.

Atinia lex.

Cic. Ver. 3.

Atinius made a law, that the plea of preſcription, or long poſſeſſion ſhould not avail in things that had been ſtoln, but the intereſt which the right owner had in thoſe ſtoln goods, ſhould remain perpetual. The words of the law are theſe: *Quod ſurreptum eſt, ejus rei æterna auctoritas eſſet.* Where by *p auctoritas* is meant *jus*

p Sig. de jur. Rom. l. 1. c. 11

dominii.

dominii. This crime of theft, as likewise of usury, was so odious unto the Romans, that whosoever was found guilty thereof, was condemned *q Lege quadrupli*, that is, to pay four times as much: whence the informers against such were termed *Quadruplatores.* *q* F. Sylv. in Verrem. 1.

CAP. 17.

De Judicibus, & Judiciis.

Lex accusatoria.

Tully mentioneth a law termed *lex accusatoria*, which in truth was no law, neither was there any author thereof: but there was such a received custom amongst the Romans, that the accuser should object against the party accused, not only the present crime then questioned, but all other scapes and faults committed long before, to the bettering of his matter: that at length this accusatory custom became in manner of a law, and so was called *Lex accusatoria.* Vid. *Franc. Sylv. in orat. pro Mur.* Cic. pro Mur.

r Their custom also was to procure others to joyn with them in their accusations; those *ſ Tully* calleth *Subſcriptores*, because they did subscribe unto the accusation. *r* Alex. Gen. dier. l. 3 c. 5. *ſ* Cic. pro Mur.

Lex Servilia & Sempronia.

Whereas *Sempronius* had preferred a law whereby he took away the authority of sitting in judgement from the Senators, and appropriated it to the Roman Gentlemen; *Q. Servilius Capio* being Consul did afterward prefer another law, whereby the administration of judgement was divided between the Senators and the Gentlemen. Curio in orat. pro Scauro.

Rupilia lex.

Rupilia lex vetabat diebus triginta ſortiri dicam.] Here we must note with *t Sigonius*, that this law was of force only in the Province of *Sicilia*: also that it is one thing *ſcribere dicam*, that is, to enter an action: another *ſortiri dicam*, that is, by lots to choose the Judges, which was thirty dayes after. Cic. in Ver. *t* Sig. de jur. prov. l. 2. c. 5.

Livia

Livia lex.

Cic. de orat. l. 3. Though by vertue of *Servilius* his law, the Senators were made capable of the office of a Judge, yet they were not thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Drusus* ordain, that the Judges should be elected equally out of both Orders, namely, three hundred out of the Senate, and three hundred out of the Gentry.

Plantia Lex.

Cic. pro Cornel. *M. Plautius Sylvanus* preferred a law, that the number of Judges should be chosen, not only out of the Roman Senators and Gentlemen, but out of the Populacy also, namely, out of every Tribe fifteen Judges.

Aurelia lex.

Cic. in Verr. fape. *L. Aurelius Cotta* being *Prætor* made a law, that the Judges should be chosen out of the Senators, the Gentlemen, and those Martial Treasurers or Clerks of the Band called *Tribuni ærarii*.

Pompeia lex.

Cic. in Pison. *Cn. Pompeius Magnus* being Consul, ordained that the Judges should be elected out of the wealthiest Centuries, tying the election notwithstanding to these three degrees of people, namely, Senators, Gentlemen, and Martial Treasurers; also he added that the number of Judges to examine causes should be seventy and five.

Julia lex.

Cic. Phil. 1. *C. Julius Cæsar* ordained that the election of Judges should be out of the Senators and Gentlemen, only leaving out the Martial Treasurers; and this *Tully* calleth *legem Judiciariam Cæsaris*.

Antonia lex.

Cic. Phil. 1. & 5. *M. Antonius tulit legem, ut tertia judicum decuria è Centurionibus, Antesignanis, Alaudis, Manipularibus fieret.*

Judicium decuriæ:] When the L. chief Justice had taken his oath, he chose out some *ex certis ordinibus, non ex omni populo*, that is, out of such degree and place as the law required, to sit in judgement on those cases which were

were termed *causæ publicæ*: and these Judges he afterward divided into lesser numbers called *Decuriæ*. *Vid. Sig. de jur. Rom. l. 2. c. 12.*

E. *Centurionibus.*] *Centurions* were Captains over an hundred footmen.

Antesignanis.] This word *Antesignanus* hath a double acception in the Roman histories. Sometimes *Antesignani* do signifie the third part of the Roman Army: for all those souldiers that fought before the banners or ensigns, as they were called *Hastati* in respect of their weapon, so were they called *Antesignani* in respect of their ensigns before which they fought. The second part of the Army, as they were called *Principes* in respect of their prowess and valour, so were they called *Subsignani*, as fighting under the ensigns. The third part, as they were called *Triarii*, because they fought in the third, or rereward, so were they called *Post signani*, as fighting behind the ensigns. Where we must not think, that those which were called *Antesignani* and *Subsignani*, were altogether destitute of ensigns among themselves: (for every Maniple had his ensign) but the Eagle and other chief ensigns were carried by the *Subsignani*, and in respect had to them they had their names. And hence ariseth the second acception of this word, namely, that all those souldiers of every Maniple, which stood in a front before their ensign were called *Antesignani*, and those were commonly the best souldiers in the company. See for the several proofs of this, *Lipsi. milit. Rom. l. 2. dial. 3.*

Alaudis.] *Jul. Cæsar* pressed a legion of souldiers out of *Gallia Transalpina*, all which afterward he made free of *Rome*. This legion he called *Legionem Alaudarum*, from the form of their helmets, which did resemble the head of the Lark, called in French *Alauda. Barthol. Latomus in Phil. 1.*

Manipularibus.] Those Captains which governed a Maniple of Souldiers, were called *Manipulares. Fr. Maturantius in Phil. 1.*

Lex

Lex Cincia de donis & muneribus.

M. Cincius being Protector of the Commons, *M. Cornelius Cethegus* and *P. Sempronius Inditanus* being Consuls, preferred a law, that no man should recieve a gift or bribe from his Client for pleading his cause. Of this we read in *Plautus*, and he called it *Legem muneralem*: also in *Tully de Senect.*

Cornelia lex.

Cic. pro Cluentio. *L. Cornelius Sylla*, preferred a law, that the chief Judge of the bench called *Judex Quæstionis*, should refer it unto the choice of the defendant, whether he would have judgement passed on him *Clam an Palam*, that is, (as *Sylvius* observeth) either by voices or by tables.

Memmonia lex.

Cic. in Ver. This law (made by *Memmius*) provided, that no action should be entred against those who were imployed abroad in business for the Commonwealth. An addition unto this law was, that whosoever should *calumniari*, that is, forge an accusation against another, a certain letter should be burnt in his forehead in token of infamy. This law is sometimes called *Lex Rhemnia*. Here we may with *u Fr. Sylvius* observe the difference of these three phrases *Calumniari*, *Prævaricari*, & *Tergiversari*. He which doth in his accusation forge faults never committed, is said *Calumniari*. He which undertaketh ones suit, and either will not urge reasons in the behalf of his Client, or answer the objections of his adversary when he is able, is said *Prævaricari*, that is, to play the false Proctor. He which doth desist in his accusation and let his suit fall, is said *Tergiversari*.

Cic. pro Sext. Roscio.

u Fr. Sylv. in orat. pro Cluentio.

Lex incerta de Nexu.

Cic pro Mur. *In iis rebus quæ mancipi sunt, in periculum judicii præstare debet, qui se nexu obligavit*, that is, if the buyer of anything in that form of sale called *Nexus*, be troubled in law, the seller thereof must secure him, and save him harmless.

x F. Sylv. in orat. pro Mur. *Mancipi sunt*]x Those things were termed *res Mancipi*, which were alienated from the seller *Nexu*, that is, by such

such a form of sale as followeth. The form was thus: At the least five Witnesses, all Roman Citizens, and of full age, besides one called *Libri-pens* (from holding of a pair of ballances) should be present, and the chapman or buyer should come with a certain brass coyn in his hand, and say, (for example sake, if it were a bond-slave to be sold) *Hunc ego hominem ex jure Quiritium meum esse aio, isq; mihi emptus est hoc ære*, and forthwith striking the ballance with the brass coyn, he gave it to him that made the sale. This kind of chaffering was termed *Nexus*, as we may suppose *a nectendo*, because it did bind the seller to make good the sale: *y* sometimes it is called *Per es & libram venditio*, because of the ceremonies used in it. *z* Now it is commonly called *Mancipatio*, *a a manus capione*, from taking that which is sold into ones hands or possession: whence the word *Mancipatus*, and *Mancipium* are used to signifie a bond-slave that is in this manner sold, though sometimes *Mancipium* doth signifie the sale it self, whence *Cic.* useth this phrase, *Lex Mancipii*, to signifie a clause or condition put in the sale. All things sold after this manner were termed *Res Mancipi*; *b* the word *Mancipi* being a noun undeclinable, as *Frugi*, *Cordi*, *Hujusmodi*, &c. and from this form of sale, the mortgaging of land for the payment of money may seem to be called *Mancipatio fiduciaria*; He which did thus receive the mortgage, or land in way of security, is said *accipere fiduciam*. *Cic. orat. pro L. Flacco.* Upon which place saith *Lambinus*, in his annotations, *Accipere fiduciam, est fundum, aut aliam rem soli seu ut apellant immobilem, ab aliquo mancipare, seu accipere ea lege ut cum ille repetat ei remancipet.* We may conject the reason of these ballances, why they should be used in this kind of bargaining, to be, because in old time they did not bargain by paying coyned money, which was termed *Æs signatum*, but by paying a certain weight of money; whence such money was termed *Æs grave*; and hence it is that metaphorically we translate *pendo* and *rependo* to pay and repay.

y Sylv. ibid.

z Melan. in orat. pro Mur.

a Camerar in orat. pro Mur.

b Priscian. lib. 3. vid. Fr. Sylv. in orat. pro Mur.

Alex. Gen. di. l. 1. c. 15.

CAP. 18.
De Majestate.

Lex Varia.

Cic. pro Cornel. *Varius Trip. pl.* made a Law, that the *Prætores Quæsitores* should sit in judgement upon those, by whom the Allies or Associates had been moved to attempt war against the *Roman* people.

Julia Lex.

Cic. Phil. 1. *C. Jul. Cesar* ordained, that such as were condemned of treason, or causing uproars in the Common-wealth, should be banished.

CAP. 19.
De Ambitu.

THose laws were termed *Leges de Ambitu*, which were made against indirect or unlawful courses used in canvasses for offices.

Fabia de ambitu.

This *Lex Fabia* restrained the number of those poor men, who because they were wont to follow up and down, and all the day to attend such as did stand for offices, were thence called *Sectatores*.

Acilia Calpurnia.

Cic. pro Mur. *M. Acilius Glabrio*, and *C. Calpurnius Piso* being Consuls, made a law, that such as were convinced of sinister and undirect means used in their canvasses, should be fined at a certain sum of money set on their heads, and they should be made both uncapable of bearing office, and uneligible into a *Senators* place.

Senatus consultum de Ambitu.

Cic. pro Mur. *M. Tullius Cic.* and *C. Antonius* being Consuls, a certain decree was made by the *Senate*, that if such as did either salute or attend upon those which stood for offices, were hired by any manner of reward, or if any publick prizes were occasioned to be plaid; or any pub-

lick

lick feaſts made by them, they ſhould be liable to the cenſure of *Calpurnius* his Law.

Julia lex.

M. Tullius Cic. made a law, that no man ſtanding for an office ſhould cauſe any publick prize to be plaid, within two years that he either had ſtood, or ſhould ſtand for an office, unleſs the day had formerly been appointed by ſome will. *Item*, he ordained, that *Senators* being found to have uſed unlawful means for the attaining of any office, ſhould ſuffer ten years exilement. And the Commonalty offending in that point, ſhould be puniſhed with an heavier puniſhment then the law made by *Calpurnius* laid on them. An addition unto this was, that if any being cited to his anſwer in the Court of their undirect means, *Si morbum excuſaret*, that is; If he did urge his ſickneſs for his not appearance, then ſhould he undergo a penalty. Cic. pro Sext.

Si morbum excuſaret.] So that *Tully* here ſeemeth to cut off that liberty, which the twelve tables permitted in theſe words, *Si judex alterve ex litigatoribus, morbo ſontico impediatur, judicii dies diffiſus eſto.*] *i. e.* If either Judge, Plaintiff of Defendant were ſick, they ſhould *diffindere diem, id eſt*, d *proferre & in aliud tempus rejicere*, prorogue the time of judgement. And unleſs ſome might think that by *morbus ſonticus* was meant ſome ſtrange diſeaſe, *Signius* inferreth, that every diſeaſe is termed *Sonticus*, which hindreth us in the performance of our buſineſs. *Sontes enim nocentes dicunt.* d Sig. de jud. l. 1. c. 28.

Licinia de Sodalitiis.

M. Licinius Craſſus being Conſul, perſwaded, *ut in Sodalitiis Judices ab accuſatore ex tribubus ederentur.* Cic. pro Plan. cio.

Sodalitia.] In the latter times the *Romans* in their canvaſſes would gather together a certain company of their ſide or faction to follow them, terming them *Sodales*, and theſe *Sodales* would, as it were, by violence force the people to ſuffrage with them, whence the violence offered by them was termed *Sodalitia*, *Sig. de Jud. lib.* 2. c. 3.

Judices ab accusatore edercuntur ex tribubus.] We may read of three sorts of Judges among the *Romans*, or rather of three divers kinds of elections of their Judges. For either they were, *Lecti sortitione*; or which more may be seen in one of the laws following, or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiff should choose them all, and then were they called *Judicis edititii*, or the Plaintiff should choose one half, and the defendant the other, and then were they called *Judices alterni*. *Melanthon in Cic. pro Muræn.*

CAP. 20.

De pecuniis repetundis.

FIrst touching the word *Repetundæ*, *Sigonius* saith, that such money tearmed *Pecuniæ repetundæ quæ possent repeti*, which might by the course of law be recovered. Namely, such money as any Magistrate, Judge, or publike Officer, did either in the Provinces, or in the City receive as a bribe, from the Allies and Associates, or from the *Roman* Citizens for the administration of Justice, or the execution of any publick duty: and this kind of bribe they tearmed *Pecunias repetundas*, *pecuniam ablatam*, *captam*, *coactam*, *conciliatam*, *aversam* (*Cic. in Verinis.*) But as it seemeth very probable these laws against bribery were first occasioned, for the ease and relief of the *Roman* Provinces and Allies, called in Latine *Socii*, who were much abused in this kind by the Prov. *Consuls*, *Prætors*, and *Quæstors*, &c. Whence *Tully* called this law against bribery, *Legem Socialem*. Here also may we note, *d Tully* useth this phrase, *Pecuniam occupare*, for *Fœnerari*, to put money to use. *Occupare pecuniam est collocare*, *inquit Nonius*, *id est*, *Fœnori dare*. *Vid. Lambin annot. in orat. pro. L. Flacco.*

d Cic. in orat. pro. L. Flacco.

Junia lex.

M. Junius Pennus Trib. Pl. preferred a law that no such as were convinced of bribery, *Præter litis æstimationem exilium etiam damnato esset irrogatum.* Liv.

Litis æstimationem.] Here we will consider the difference of three phrases, *Litis contestatio*, *Litis redemptio*, & *Litis æstimatio*. e The first signifieth the producing of witnesses when both sides shall openly in the Court use the form of words, *Testes estote*: which was not done, *antequam satisdationes factæ essent*, before Sureties were put in, by the one, that he should *Judicatum solvere*, pay that which he was condemned: by the other, that he would *rem ratam habere*, that is, stand to the Verdict or Sentence in the Court. The second phrase signifieth a composition or an argument agreed upon by both sides between themselves: f *Redimere lites est pacti nem facere; qui enim paciscitur, facit ut lis non sit.* The third is when the party which is cast in the Suit is adjudged to pay the money, or the worth of the good called in question, together with the cost and damages in law unto his adversary. g *Litem æstimare est pecuniam, de qualis fuit, & propter quam condemnatus est reus, in summam redigere, quæ de bonis ejus redigatur.* b And *Æstimare litem est, quod vulgo dicitur, Taxare litis expensas.*

e Sig. de jud. l. 1. c. 27.

f Fr. Sylv. in orat. pro Q. Roscio.

g Fr. Sylv. in orat. pro Cluentio.

b l. Tiffin. in orat. pro Rabirio.

Acilia lex.

M. Acilius Glabrio made a law, that such as were accused of bribery, *Neque ampliari, neque comperendinari possent*, that is, they must out of hand receive judgement.

For the right understanding of these two words [*Ampliari & Comperendinari*] we must consider the ancient customes and ceremonies used by the *Romans* in handling their suits of law. First, there was *In jus vocatio*, that is, a citation of one into the Court. Secondly, *postulatio*, that is, a request put up unto the *Prætor*, that it might be lawfull for the Pliantiff to Enter his Action against the Defendant; whence *Postulare aliquem de hoc vel illo crimine*, is to accuse one of this or that crime. Thirdly, *Nominis delatio*, that is, the taking of that Defendants name into the Court-book: and this was termed, *Intendere actionem, vel Ditem*; and *Dism alicui dicere*, that is, to Enter an Action against one. In the second of these Acts, namely,

namely, when request was made by the Plaintiff unto the *Prætor*, that he might Enter his Action against the Defendant; then the Plaintiff did *Vadari reum*; that is, demand Sureties or Bale from the defendant, that he would appear upon the day appointed by the *Prætor*. And the Plaintiff did again, *Promittere vadimonium*, enter bond also for his own appearance upon the same day, which commonly was the third day following, called properly *Dies perendinus*, and sometimes *dies tertius* simply, as it appeareth by those capital letters. I. D. T. S. P. used to be written in their actions: which letters *i Probus* expoundeth thus; *In diem tertium, sive perendinum.* So that then properly, *Lis vel reus dicitur comperendinari*, when the giving of Sentence is deferred till the third day. Moreover before the *Prætor* would suffer the Action to be entred, he would swear the Plaintiff, that he did not accuse the Defendant *calumninandi causa*, that is, falsly or maliciously, and this kind of swearing was termed *Calumniam jurare*, *calumniam de jurare*, and *In litem jurare*. Now if either party were absent from the Court upon the third day, except he were sick, he was Cast in his Suit, and the *Prætor* did grant an Execution called *Edictum peremptorium*, whereby he gave authority to his Adversary to seize upon his hoods. Sometimes there were two or three Edicts in manner of Processes or Writs, before the *Edictum peremptorium*, could be obtained; sometimes it was granted at the first, and then was it *k* called *unum pro omnibus*. *l* Now if both parties came into the Court and did appear, then were they said *se stitisse*: so that this word *stito* among the Lawyers, did signifie to shew ones self in the Court. Upon the third day the *Prætor* also with the whole Bench of Judges did meet, and the *Judex Quæstionis* (whom *Rosinus* maketh a distinct Officer differing from the *Prætor*) did cause all the *Select* Judges to pull out certain lots out of an urne or pitcher brought thither for that purpose, and those Judges upon whom the lot fell, were to sit in judgement:

i Sig. de ital. l. 1. c. 27.

k Sig. ejusd. l. c. 28.

l Sig. ejusd. l. cap 21.

ment: This was called *Sortitio Judicum.* Now if either the Plaintiff or Defendant did ſuſpect any of thoſe that they would be partial, then might he except againſt them, & that was called *Judicum rejectio:* Then the *Judex quæſtionis* would in manner aforeſaid chooſe other Judges ing their places, & that was called *ſubſortitio.* Which be-in ended, thoſe Judges which were thus choſen, receiveed every one of them from the *Prætor* three tables, the one having this letter A written in it, betokening *Abſolution:* whence *Tully* calleth it *literam ſalutarem:* The other having this letter C writtè in it, betokening *Condemna ion:* The third having theſe two letters N *L* betokening *Non liquet.* After the receipt of the tables, then did the *Prætor mittere vel dimittere judicis in conſilium*; that is, ſent them to caſt their tables into the urnes, there being three urnes or little coffers purpoſely provided; the one for thoſe Judges which were choſen out of the *Senators*, the other for thoſe that were choſe out of the Gentlemen, the third for thoſe which were choſen out of the *Martial* Treaſurers. Now if they did caſt the firſt ſort of tables into the urnes, then the *Prætor* pronounced the Defendant abſolved; if the ſecond, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoſcendum*, that they muſt have longer time to enquire: And this is properly termed *Ampliatio*, a Reprieve, and in ſuch manner it is ſaid, *quod lis vel reus dicitur Ampliari.* The proofs for this manner of proceeding in law may be collected out of *Roſinus lib. ant. 9. c. 19. 20, & 24.* and out of *Sigonius* according to the marginal quotations. The like cuſtom ſeemeth to have been received alſo among the *Græcians*, who had three letters of their Alphabet, anſwerable to thoſe among the *Romans*; ⊙ was *damnationis ſymbolum*, which occaſioned that of *Perſius.*

Et potiſes nigrum vitio præſcere Theta.

T a token of abſolution, A of ampliation. *Vid. Eraſm. Adag.* ⊙ *præſigere.* Some as it appeareth by *Eraſm.* give a reaſon of ⊙, becauſe it reſembleth the heart of man wounded:

wounded in the midſt with a Dart, others becauſe it is the firſt letter of θανατος, ſignifying death according to that,

Infelix multis theta eſt mihi litera felix,
Si θανατον ſcribit ſcribit & illa θεον.

Cic. pro Cluentio.

Cornelius Sylla being *Dictator*, ordained a law that the chief Judge called *Judex queſtionis* with the whole Bench of Judges, ſhould ſit upon life and death on ſuch as had killed a man; on ſuch as had with an evil intent ſet any place on fire: on ſuch as ſhould walk with any weapon either to kill or rob a man; on ſuch as had either made, bought, ſold, had, or given any poyſon, thereby to kill a man; or any Magiſtrate, whoſoever ſhould cauſe any conventicle or ſecret aſſemblies, or ſhould give their conſent to the ſuborning of any man to accuſe another falſely, that thereby he being innocent might be oppreſſed and condemned by publique judgement. Moreover *De ejus capite quærito, &c.* that is, Let them ſit upon life and death on that man, which ſhall bear falſe witneſs, that another might be condemned to death; on that Magiſtrate or chief Judge, which ſhall take a bribe to condemn another to death.

Parricidium.] This word doth properly ſignifie only a murthering of ones parents or kinsfolk, but in *Numa Pompilius* his time, it ſignified as much as *homicidium*, that is any man-ſlaughter whatſoever.

CAP. 21.

Lex. 12. tabularum de vindiciis.

SI qui jure manum conſerunt, utrique ſuperſtitibus præſentibus vindiciis ſumunto.

Si qui in jure.] Here we muſt note that the cuſtome among the *Romans* in old time was, that as often as any controverſie did ariſe touching the poſſeſſion of an houſe, a field, or any ſuch like thing, the *Prætor* did go unto the houſe, field, or the thing queſtioned, being accompa-

nied

nied thither with the Plaintiff and the Defendant, together with others whom the law required to be present as witnesses. This place, whatsoever it were, though in the open field, during the time that the *Prætor* sate there to give judgment, was termed in Latine *Jus*, in English a *Court*. Where in the presence of the *Prætor* and the witness, the Plaintiff and Defendant did *manum conserere*, that is, as *m Camerarius* supposeth, argue and despute the case *pro* and *con* in a solemn form of words prescribed them by the law. For this phrase is borrowed by the Lawyers from the art military, where souldiers are said *manum vel manu conserere*, when they fight hand to hand, [*utriq; superstitibus præsentibus*] that is, let both parties in the presence of witnesses (so *n Festus* expoundeth *superstites* [*Vindicias sumunto*] that is, let them take a turfe of the ground: for so *o Sigonius* expoundeth *Vindiciæ*: though properly (as he observeth) it signifieth the possession of a thing, rather than the thing possessed. This turfe being taken up, was carried to the *Prætor*, and judgement was given upon that; as upon the whole. I do presume that in other cases, as in taking the possession of an house, &c. some other thing in manner of the turfe was presented unto the *Prætor*, upon which, as upon the whole he gave judgment. In process of time, the *Prætor*, by reason of the tumult of other imployments, not finding convenient leisure to review every particular ground, or house called in question, *p* it was ordained contraray to the twelve tables, that the Plaintiff in such cases should come into the Court, and challenge the Defendant in this form of words, *Ex jure manu consertum te voco*, that is, I challenge thee to go out of the Court into the field, to use one towards the other that solemn form of words which the law injoyneth. Then did the Defendant either yield the possession of the ground, or else did reply, *Unde tu me ex jure manu consertum vocasti, inde ibi ego te revoco*. Then did they both, taking witnesses with them, without the company of the *Prætor*,

m l. Camerar. pro l. Mur. n.

n Rosin. ant. l. 8 c. 26.

o Sig. de jur. l. 1. c. 21. Vindiciam sentire est sententia decreta, quæ rem obtinere dicebat Vindicias judex ferebat, vindicias qui rem obtinebat. Jacob. ad l. 13. 27.

p A. Gel. n. & Attic. l. 20. c. 10.

inire viam, that is, go into the ground bringing back a turfe thereof, upon the which (as in manner shown) the *Prætor* gave judgment at their return.

For the better understanding of this that hath been spoken in the explanation of this law, we must note, that the action termed *Vindicatio*, was twofold: either the suit for the possession of a thing, or the suit for the Lordship, or right owning thereof. The possession of any thing was recovered, either by true and real violence, or by a seeming violence: this seeming violence was twofold, either it was *manus consertio*, which was shown immediately before; or *moribus deductio*, that is a customary leading the unlawful *possessor* out of the ground, thereby to enter possession. *Vis simulata, altera à lege, altera emanavit a moribus*, saith *q Sigon.* The first of these did arise from the *Roman* law, the other from a custome among the *Romans*; the first of these is to be seen in *Tully* his Oration *pro Muræna*, the other *pro Cæcinna*: to these *Sigonius* addeth a third kind of seeming violence; which how justly he hath termed a violence, I shall leave to the indifferent judgment of the impartial Reader. The right of the Lordship, or owning any thing, was sued for in this manner: The Plaintiff did question with the Defendant thus; first *an auctor esset*? that is, whether he had not covertly made away the possession of the thing thereby to frustrate the action? Secondly *an' sponderet*? that is, whether he would put in a gage of money into the Court, which he would forfeit if he were cast; which being done, the Plaintiff did also upon the demand of the Defendant put in a gage of money to be forfeited if he prevailed not in his suit. This gage of mony was termed *r sacramentum*; and in this sense, *Tully pro Milone*, saith, *Injustis, vindicis & sacramentum alienos fundos petunt*, that is, they sue for other mens ground with unjust actions and gages of money. Thirdly, *An satisdæret*? that is, whether he would put in surety, that during the tryal in law, the ground or house called in question should not be impared? The

q Deind. lib. 1. c. 21.

r Sigon. de Ju. l. 1. c. 21.

solemn

ſolemn form of words uſed in the firſt demand, is thus to be ſeen in *ſ Tully*, *Quando in jure te conſpecio, poſtulo anne ſies auctor?* If the Defendant held his peace, then was he adjudged to pay all coſts and damage; if he profeſſed himſelf the preſent *poſſeſſor*, then did the Plaintiff proceed in manner as he ſhould for the poſſeſſion thereof; if he denied it, then did the *Prætor* ſay unto the Plaintiff, *Quando negat, ſacramento quærito*: Thereupon ſaith the Plaintiff to the Defendant, *Quando negas, te ſacramento quinquagenario provoco: ſpondeſne te ſoluturum quinquaginta aſſes ſi auctor ſis?* to whom the Defendant replied, *ſpondeo quinquaginta aſſes, ſi auctor ſim: Invero ſpondeſne idem, niſi?* The Plaintiff anſwered, *Ego quoq; ſpondeo.* Now in this kind of ſtipulation, the Plaintiff was ſaid *ſponſione & ſacramento provocare, ſacramento regare, quærere, & ſtipulari*, that is, to challenge one to pawn a ſum of mony for the tryal of a ſuit in law. The Defendant was ſaid, *contendere ex provocatione, contendere ſacramento, & reſtipulari*, that is, to be ſued in ſuch maner. This mony was termed *ſacramentum*, † becauſe when it was forfeited, it was beſtowed *in rebus ſacris & divinis*. Touching the laſt interrogatory, I read no ſet form of words, but by the word *ſatisdatio*, the intelligent Reader may conject, that it did ſomewhat ſymbolize with our Engliſh cuſtom of putting in bail. ‖ This putting in of bail was twofold. The one was *ſatisdare judicatum ſolvi*, to bind himſelf to pay what ſhould be adjudged. The ſecond was *ſatisdare rem ratam habere*, to become bound that he would ſtand to the verdict and judgment of the Court. The firſt of theſe bonds was required to be performed by the Defendant: the ſecond by the Plaintiff's Proctor or Atturney. But if the action were an action of debt, then the Proctors alone became bound; the Plaintiffs Proctor, that he would ſtand to the judgment; the Defendants Proctor, that the debt adjudged ſhould be paid.

ſ Cicer. pro Mur. & pro Cœcin.

† Sig. de jur. l. 1. c. 21.

‖ Sig. de. jud. l. 1. c. 27.

LIB. IV.

Rites and Customs observed by the Romans *in their Wars.*

De Militia.

TOuching the art *Military* used among the Romans, it will not be impertinent to consider first how war was proclaimed, and peace established by them; then to march on to the description of their bands, or companies, where we may first observe the office of their chief Captain, and their subordinate leaders, together with the several Wards, into which the universal army was divided. After this we may descend unto the diversity of punishments used towards Captives, and likewise toward refractorious and disobedient souldiers: Adding a *Corollary* or *Period* to our whole discourse, the several rewards, which the L. General with his Souldiers after the performance of certain atchievements received.

CAP.

CAP. I.

De ritu, quem Romani, observarunt vel fœdus ferientes vel bellum inferentes; & de triplici ratione conscribendi milites.

WE may remember that it hath been already shewn, that both the proclaiming of war and peace belonged unto a certain order of Roman Priests, called *Fœciales*, who by reason of their office, I Englished *Heraulds at arms*. The rites and ceremonies which they used, when they proclaimed peace, were as followeth, *viz.* One of those Heraulds having his commission from the State (after that both sides had agreed upon the truce and league now to be concluded) took up a stone in his hand, [a] using this solemn form of words: *Si recte & sine dolo male hoc fœdus atq; hoc jusjurandum facio, dii mihi cuncta fælicia prestent; sin aliter aut ego aut cogito (cæteris omnibus salvis) in propriis patriis, in propriis legibus, in propriis laribus, in propriis templis, in propriis sepulchris solus ego peream, ut hic lapis è manibus decidet*, and therewithal he cast the stone out of his hand: which manner of oath was termed *Jurare Jovem lapidem*, or *per Jovem lapidem*, that is, as it hath been rendred by *Festus* to swear by *Jupiter*, holding a stone in ones hand: [b] Many say that he did cast that stone at an hog or porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico consilio, tum ille Diespiter, populum Rom. sic ferito, ut ego hunc porcum hodie feriam*: alluding to which custome *Virgil* saith,

Et cæsa jungebant fœdera porca.

The manner of denouncing War hath been already shewn. The act of service in War was termed *Mereri sub hoc vel illo duce*, that is, to serve in War under this or that Captain; and whatsoever souldier was discharged of his service, as having served out his whole time, he was called *miles emeritus*, and by [c] *Tully* such a one is said

stipendia

[a] Polyb. vid. Rufin. antiq. l. 10. c. 2.

[b] Sig. de jure Ita. l. 1. c. 1.

[c] Orat. pro lege Manil.

stipendia confeciſſe. d *Servius* hath obſerved that the Roman ſouldiers were preſſed three manner of ways: *per Sacramentum, Conjurationem & Evocationem.* But e *Lipſius* cenſureth him for the amiſs explanation of the laſt member. Therefore the indifferent Reader ſhall give me leave to borrow the termes from *Servius*,] but the explanation of them partly from *Servius*, and partly from *Lipſius* in the places now quoted. Ordinarily ſouldiers at their preſs, did each ſeverally take their oath not to forſake their Captain or Countrey; and this oath was called *Sacramentum militare*; the words thereof are rendred by f *Polybius* thus; *Obtemperaturus jum, & facturus quicquid mandabitur ab imperatoribus, juxta vires*; and thoſe were termed *Milites per ſacramentum.* g This ſort of ſouldiers were upon appointed days, as it were of publick Muſter, elected and choſen by the military *Tribunes* under the Conſuls; the aſſignment of the day did chiefly belong unto the Conſuls, at which time if any ſouldier withdrew himſelf, & did not appear, he was ſeverely puniſhed, ſometimes by impriſonment, ſometimes by confiſcation of his goods, ſometimes by being ſold for a bondſlave. Upon extraordinary occaſions (as when tumults or commotions did cauſe any ſuſpition of imminent danger) the chief leaders of the ſouldiers did go unto the Capitol, and bring forth two banners or flags, the one red, called therefore *Vexillum Roſeum*, unto which the footmen repaired; the other skie-coloured, called therefore *Caruleum*, which the horſemen followed. The reaſon why the horſemens banner was sky-coloured, is rendred thus, becauſe it did moſt reſemble the colour of the Sea, which colour they deemed moſt acceptable to *Neptune*, who was both the God of the Sea, and the firſt Author of Horſes. Now becauſe the ſudden danger would not yeild ſo much time that they might ſeverally be ſworn, therefore did they take their oath in common altogether; only one chief b ſouldier throughout a whole legion, took his oath at large, & in expreſs words, the

d Serv. l. 2. & 7. Æn.

e Lipſ. de milit. Rom. l. 1. dial. 2.

f Vid. Lipſ. de milit. Rom. l. 1. cap. 6.

g Lipſ. de Rom. l. 1. dial. 4.

b Lipſ de mil. l. 1. dial.

the reſt followed in order one by one, ſaying, Καὶ ἐμὸς ὅρκος, that is, that he ſwore the ſame as the firſt. If the Tribune diſtrusted his ſouldiers fidelity, then would he ſwear them every one ſeverally in terms at large, and thence were they called *Milites per conjurationem*; as likewiſe *Milites ſubitarii*, in reſpect of their ſudden preſs: The third member may alſo be admitted, if we with * *Lipſius* underſtand it in its true ſenſe; namely for thoſe ſouldiers, who by the L. General were added unto the Body of their Army, he having authority to call out ſuch other ſouldiers, who for their long ſervice were diſcharged form giving in their names at a muſter: And theſe are generally by all authors termed *Milites evocati*, and *Lipſius* deemeth them all one with thoſe whom *Servius* called *Milites per evocationem*. The ſouldiers being thus preſſed, if they purpoſed to make war upon their enemies, then did the L. General ſummon them to prepare themſelves by a ſound of Trumpets: and this was termed *Claſſicum cane à calando*, which ſignifieth to call. Which being done, a Scarlet banner was hanged out at the L. General his Pavilion, from which Ceremony I think that that common adage did firſt ariſe, *Conferre ſignà & Collatis ſignis pugnare*, to joyn battel. Immediately upon this they did *Garritum tollere*, make a great ſhout or noiſe with their voices, to the greater terror of their enemies, and that the noiſe might be the greater, they did *Arma concutere*, ruſtle together with their armour, and claſh their ſwords. Theſe four ceremonies are to be ſeen more at large in *k Lipſius*. Unto which we may add the fifth, obſerved by *l Fr. Sylvius*; namely, that at the removing of their Camp they did *conclamare vaſa*, give a great ſhout or cry, in token that the ſouldiers ſhould truſs up their bagg and baggage: and hence it is that *m Plautus* uſeth this phraſe, *Colligatis vaſis*, to ſignifie as much as *paratè* or *expedite*. Now that they might be the readier for the battle, they did gird (as I ſuppoſe) their ſouldiers coats cloſe unto them; and a ſouldier thus girt,

* Lib. de mil. Rom. l. 1. dial. 8.

k Lib. 4. de mil. Rom. dial. 1. & 12.

l In ep. viror. illuſt. l. 4. c. 1.

m Plaut. in Pſeudulo.

girt, was called *Cinctulus*, that is (saith *n Pighius*) *Cinctutus*. *o Inde distinctos ignavos, & militiæ minime aptos putarunt, Precinctos vero fortes & strenuos.* Hence also is that proverbial speech, *In præcinctu stare*, or *vivere*, to be in readiness continually:

Non pudet ad morem discincti vivere Natte! Pers. Sat. 3.

n Pigh. in suæ præf. ad l. 1. sect. 1. m.

o Alex. Gen. dier. l. 1. c. 22.

CAP. 2

De Legione, Auxiliis, & Legionibus partibus.

THe Roman Forces were in old time divided into two several parts; namely, *in Legiones & Auxilia*, into Legions and Auxiliary Bands. The Auxiliary Bands were such forces as the neighbour & confederate Countries did send unto the Romans. The Legions were taken out of the body of the Romans, *p Legio à deligendo dicta est*, from the choice and selecting of souldiers. *q Romulus* is said to have been the first author of these Legions, making every Legion to contain 3000 footmen, and three hundred horsemen, *r* one thousand footmen, and one hundred horsemen being taken out of each national Tribe. Afterwards it was augmented by *Romulus* himself into four thousand footmen, *s* whence it was called *Quadrata Legio*. And in process of time a Legion increased unto the number of six thousand: which number it seldom or never exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now *t* none could be ordinarily registred for a souldier untill the seventeenth year of his age, *u* at which his first admission he was termed *Tyro*, a fresh-water souldier: and hence figuratively *Tyrocinium* hath not been translated only the first entrance into war, but also the initiation, or first entrance into any art or science whatsoever. After he had served many years, then was he termed *Veteranus* an old beaten souldier. *x* The Roman legion was divided *in peditis & equites*, there being commonly for every thousand footmen an hundred horsemen. *Pedites dispribuli erant in Cohortes.*

p Plut. in Romulo.

q Rosin. ant. l. 10. c. 4.

r Sig. de jur. Rom. l. 1. c. 15

s Sig. ibid.

t Alex. Gen. dier. l. 1. c. 22.

u Pancirol. rerum deperdit. c. de habit. & vest. veter.

x Sig. de jur. Rom. l. 1. c. 15

Cohortes

Cohortes in Manipulos; Manipuli in Centurias: Equites distributi erant in Turmas, Turmæ in Decurias. The word *Cohors* doth signifie that part of ground, which is commonly inclosed before the gate of an house, which from the same word we call a Court: and [z] *Varro* giveth this reason of the *Metaphor.* As in a Farm-house (saith he) many out-buildings joyned together make one inclosure so *Cohors* consisteth of several maniples joyned together in one body. It is manifest (saith *a Alexan.*) that the Romans in antient time did very seldom, yea never (except in great necessity) inroll into their universal army above four legions: and in an ordinary legion, which he termed *Legione justam*, ten *Cohortes*: every *Cohors* containing three maniples, every maniple two Centuries, every Century an hundred souldiers, whence they from *Centum* were called *Centuria* a Century. These Centuries were sometimes divided into lesser numbers call'd *Contubernia*; every *Contubernium* containing ten souldiers besides their Captain, [c] which was called *Decanus*, & *Caput contubernii*. Where we must observe, that *Contubernium* doth signifie as well the pavilion, or lodging it self, as the souldiers lodging therein, and it may be so called *quasi contabernium*, from *Taberna* signifying any sleight lodging made of boards. Those that ruled over a thousand footmen we may in English call *Serjeants-major*: they called them *Tribuni militum.* Those that governed over the Centuries were called by them *Centuriones*, by us in English *Centurions*, and they had their inferior officers under them which were called *Tergiductores*, or *Extremi agminis ductores.* [d] Their office was to oversee and look unto those of the camp which were sick, who commonly came behind the army *quasi extremum agmen, & tergum acici.* The horsemen were divided into several troops called *Turmæ*; every *Turma* containing thirty horsemen. Again, every *Turma* was subdivided into three lesser companies called *Decuriæ*; every *Decuria* containing ten horsemen: whence their Captain was called *Decurio*, and the Captains over the greater troops, namely over the several

y Edmundus in his observ. upon Cæsars Comment. lib. 2. c. 3

z Varro lib. 3. de re rustica

a Alex. Genealog. l. 1.

b Varro vid. Rosin. ant. Rom. l. 10. c. 5

c Rosin. ibid.

d Veget. vid Rosin. ant. Rom. l. 10. c. 7

several wings of the horsemen were called *Equitum præfecti*. Now the chief Governour over the universal army was called commonly *Imperator*; we in English call him a L. General. His Lieutenant or L. Deputy was called *Legatus*, *e* who in old time was called *Non tam ad imperandum, quam ad consulendum Imperatori*. This word *Imperator* in the Roman histories hath a threefold acception; first, it is taken for him, who by commission from the State hath the managing of an Army, being the same that *Prætor* was in antient time; and in this sense it hath affinity with the office of our L. General. Secondly, for such a L. General who by his Prowess *f* having put one thousand of his enemies to the sword, was both by his souldiers saluted, and by the Senate styled by the name of *Imperator*. But if he had slain less than one thousand, he was not thought worthy of this solemn salutation by that name. Lastly, it was taken for a Soveraign Prince, King, or Monarch, in which sense it was the *Prænomen* of all the Roman Emperors, from *Julius Cæsar* forward. Now because the souldiers in a legion must of necessity differ much in state, age, and experience, some being wealthier, elder, and of more experience than other; hence was it requisite also that there should be a distinction of places in their Armies according to the desert and worth of each several person. We are therefore likewise to understand *g* that the Consuls every year made a general muster: at which time the military Tribunes chose out the youngest and poorest of all the rest, and called them by the name of *Velites*. Their place in regard of other souldiers was base and dishonourable, not only because they fought afar off, and were lightly armed; but also because they were commonly exposed to their enemies as forlorn hopes. According to *h Lipsius* the *Velites* were commonly placed either *In Fronte*, *Viis*, or *Cornibus*. 1. In the front of the Army. Secondly, in the distances, or spaces between the several maniples. 3. *In Cornibus*, that is, in the wings of the battel; not that the wings at any

e Lips. de milit. Rom. l. 2. dial. 10.

f Bart. Lat. in Phil. orat. 14.

g Lips. de mil. Rom. l. 1. dial. 3.

h Lips. de mil. Rom. l. 4. dial. 3.

any time consisted of those *Velites*, for that was the *Socii* and Auxillary forces; but either the spaces in the wings were filled by those *Velites*, or else they might obtain a promiscuous place amongst those forrainers. Notwithstanding they did like scouts run to and fro casting out their darts (as occasion was offered) and so retire: whence when a man doth leap from one thing to another in his talk, we say he doth *Agere velitatim*. Having chosen out a competent number of these scouts, they proceeded to the choice of them which they called *Hastati*, that is, Pikemen: forasmuch as they fought with a kind of javellin which the Romans called *Hasta*. These Pikemen fought in the first part, or fore-front of the main army. The third choice which they made was of the strongest and highest-bodyed men, who for the prime of their age were called *Principes*: and hence was the second place or ward in the main army called *Principia*, according to *i Thraso* his speech, *Ego ero post Principia*, that is, I will follow the *Principes*; thereby chusing to himself the best and safest place. The last sort of souldiers, which stood in the third place or ward, were called *Triarii*. They were of all the most approved, and the very last help or refuge: so that if they failed, all wast lost: and hence ariseth that form of speech, *Ad Triarios ventum est*, *k* whereby we signifie that a thing is come to the last push. As I suppose, the weapon wherewith these *Triarii* fought, was a dart, with Iron fastned at the end of it called in Latine *Pilam*. The reasons of this my conjecture are these: 1. Because the first Century of these *Triarii* was called *Primum pilum*, and their Centurion *Primo pilus*, and *Primipulus*, and *Primus centurio*, because he was the chief Centurion in a whole legion, as having the charge of the chief banner called the *Eagle*; *l* whence *Aquila* is sometimes used to signifie *Primo pilatum*, the offiice and place of the *Primopilus*. The second Century was called *Secundum pilum*, and their Centurion *Secundi pilus*, &c. Secondly, they called the *Principes*, which marched in the

i Teren. Eun. Act. 4. Scen. 7

k Alex. Gen. dier. l. 5. c. 1.

l Lips. de mil. Rom. l. 2. d. l. 1.

battel immediately before these *Triarii*, *Antepilanos*: which argueth that those souldiers which followed next, should be the *Milites pilanis*, and by consequence their weapon should be that kind of dart which they called *pilum*. Their manner of embatling was divers. Sometimes they would make a winged army, so that the main body thereof should be in the middle, and on each side a lesser company: the main body we in english call the *Vauntguard*, and the two lesser companies we call *Wings*; as likewise in latine they call them *Alas aciei*, & *dextrum vel sinistrum eorum*. *m Pancirol.* calleth them *Vexillationes*, because there fought no more in either wing than belonged to one banner called in Latine *vexillum*. The governors of these wings he calls *Alarum præfectos*. Sometimes they embattled, so that the forefront of the army being small, it was inlarged bigger and bigger backward, in manner of a triangle: By *n Lipsius* it is demonstrated unto us under the form of the Greek letter Δ. He in the same place calleth it *caput porcinum quia velut fodit*, & *ruit invadendo*. Commonly it is called, *Cuneus militum*, the *Metaphor* being borrowed not only from the resemblance it had with a wegd, but that also from the use of a wegd: for they never embattled in that form, unless it was to break through their enemies, the piercing angle being thick compacted with targets. Sometimes they did in a quite contrary manner, inlarge their army in the forefront, making it to end in an angle: and *o* this they called *forfex*, and *forceps militum*. Sometimes their form of embattling was circular, and then it was called *Orbis vel globus militum*. The banner or flag was properly called *Vexillum*, being a diminutive of *Valum*. It was also called *p Bandum*: whence we do at this day call so many souldiers, as do fight *sub eodem bando*, a band of souldiers: as *Romulus* called those that fought *sub eodem manipulo fœni* (an handfull of hay being used at that time in stead of a flag) *Manipulum militum*: *Ovid*,

Percita suspensos portabat longa maniplos,
Unde maniplaris nomina miles habet.

m Pancir. in not. occident. & occident. imper. c. 31.

n Lips. de mil. Rom. l. 4. dial. 7.

o Lips. ibid.

p Festus vid. Pancir. in not. orient. & occident. imper. c. 32.

* *Suidas*

* *Suidas* is plain, βάνδον καλοῦσι ῥωμαῖοι τὸ σημεῖον ὃ ὁ πόλεμος, that is, the Romans called their military enfign a *Band*: hence others have uſed βανδοφόρος to ſignifie as much as *Signifer*, an Antient bearer. * Suid. in voce βάνδον.

CAP. 3.

De oppugnatione urbis, & iis quæ ad oppugnationem requiruntur.

IF the ſiege of a town ſeemed difficult and hard to compaſs, then did the Romans uſe certain means of policy, for the better effecting thereof. They environed the town with a broad and deep ditch, adding thereunto a rampire, fortified with many Caſtles and Fortreſſes; whereby they both kept the town from any forrain ſuccour, and withall ſecured themſelves from ſallies, and other ſtratagems. This rampire did extend it ſelf towards the walls of the City; ſo that by making (as it were) a great hill, they might overtop the City, and fight with the greater advantage. Now that this greater heap of earth might become firm, & well able to ſupport the buildings to be erected upon it, they did caſt in much timber, and ſtones amongſt the earth; and this heap of earth, ſtones, and timber when it was reared, was properly called *Agger*, whence cometh both the latine verb *Exaggerate*, and the engliſh of *Exaggerate*, that is, to amplifie or encreaſe a matter. The ſtakes, poſts, and trees, which were rammed in about this bulwark, or rampire, to uphold the earth, were ſometimes called *q Cervi*, becauſe of their forked and ſharp tops, but more properly *r Valli*, & *Valla*. The diſtance or ſpace between each ſtake, was called *Intervallum*; though now *Intervallum* doth ſignifie not only ſuch a diſtance, but any diſtance either of ſpace or time, as it appeareth by that of *Tully*, *ſ Intervallo locorum, & temporum disjuncti*. Sometimes *Vallus* doth ſignifie a pole or ſtake, whereunto vines are tied, according to that received adage which we uſe when a ſpecial friend forſaketh one, *Vallus vitem decepit*. From the firſt ſignification it

q Lipſ. Pol. l. 2. dial. 2.
r Serv. Æn. l. 10.
ſ Cic. ep. fam. l. 1. ep. 7.

it is, that *Vallum* doth often ſignifie the inclofure, or hedging in of trees or ſtakes, wherewith the bulwark is upheld; alluding whereunto † *A. Gellius* tranſlates it, *Vallum dentium.* The meanes of their defence, whileſt they were making their rampire, was a certain engine or ordnance of war *u* made of planks and hurdles running upon wheels, under which they might reſt ſecure from all ſtones and darts caſt from the walls of the City: it was called *Vinea.* A ſecond engine was *Muſculus.* The matter whereof it was made I have not read; but the uſe of it was, that under it the ſouldiers might approach unto the walls of the City, and undermine them. Thus much *x Lipſius* ſeemeth to infer, when he rendreth the reaſon of the name: *Muſculus ideo dictus, quia inſus ejus animalculi foderent ſub eo terram.* A third meanes of their defence was *Militaris teſtudo.* This word *teſtudo* in the art Military, had a double acception, both being borrowed from the reſemblance of the Tortoiſe-ſhell, which is the true and genuine ſignification of this word. In the firſt acception *Teſtudo* y doth ſignifie a warlike engine or fence made with boards covered overwith raw hides, which ſerved againſt fire and ſtones caſt at the ſouldiers; under this they might ſafely aſſail the walls. *z* In the ſecond acception it ſignified a Target-fence, which was a cloſe holding together of Targets over head like a vault or roof, wherewith the footmen did defend themſelves from the thick ſhot of arrowes, or ſlinging of ſtones. Their rampire or countermure being finiſhed, they uſed certain great timber Towers made upon wheels to run to and fro, which they called *Turres ambulatoria*, moveable turrets. Theſe Towers had many ſtories one over the other, *a* wherein they carried ladders and caſting bridges, thereby to ſcale the walls. The engines hitherto have been defenſive, ſuch wherewith the Romans defended themſelves in their ſiege: others there were offenſive, wherewith they did aſſail the City; and of thoſe the chief were *Baliſta ſive Catapulta, Scorpius ſive Onager, Ariet,*

† A. Gel. noct. Attic. l. 15.

u Roſin. ant. Rom. l. 10. c. 16.

x Lipſ. Pol. l. 2. dial. 9.

y Roſin. ant. l. 10. c. 11.

z Stad in Flo. l. 4. c. 10.

a Roſin. ant. Rom. l. 10. c. 16.

&c.

&c. Malleoli. The first of these engins, as it was called *Balista* ἀπὸ τῦ βαλλειν, from darting, or casting forth any thing, so it was in old time called *Catapulta*, ἀπὸ τῆς πάλτης which signifieth a shaft or dart; though it cannot be denied, but that *Pelta* doth also signifie a kind of shield made in the form of an half moon, according to that of *Virg. Æn. l.* 1

Ducit Amazonidum lunatis agmina peltis.
Penthesilea furens ——

The form thereof followeth, translated word for word out of *c Marcellinus.* [Between two planks there is set in frame, and fast joyned a strong and big Iron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought, there lieth forth, father out a four square beam, made hollow with a direct passage in manner of a narrow trough, tied fast with many cords of sinews twisted one within the other, and thereunto are joyned two wooden skrews: near unto one of which standeth the cunning Balister, and subtilly putteth into the hollow passage of the beam a wooden shaft, with a big head glewed fast to it. This done, on both sides two lusty young men do bend the engine by turning about certain wheels: When the top of the head is drawn to the uttermost end of the cords, the shaft being carried forth of the Balista, by the inward force thereof, it flieth out of sight. That the reader may receive the more light in the understanding of this obscure description, I have added the very words of *Marcellinus. Ferrum inter exiculos duos firmum compaginatur & vastum, in modum regulæ majoris extentum; cujus ex volumine teretis, quod in medio ars polita componit, quadratus eminet stylus extensius recto canalis angusti meatu cavatus, & hac multiplici chorda nervorum tortilium illigatus, eiq; cochleæ duo ligneæ conjunguntur aptissimè, quarum prope unam adsistit artifex contemplabilis, & subtiliter adponit in temonis cavamine sagittam ligneam, spiculo majore conglutinatam, hocq; facto hinc inde validi juvenes versant agiliter rotabilem flexum. Quum ad extremitatem nervorum acumen venerit*

b Lipf. pol. l. 2. dial. 2.

c Am. Marc. l. 23 c. 3.

rit summum, percita interna pulsu à balista ex oculis evolat. In respect of its use we may English it a *Cross-bow*: but it was much bigger, and of a different form. The *Scorpion*, which now they call *Onager*, is described by *Marcellinus* in the same place thus. Two Oaken or Elm beams were hewn out, and somewhat bended, so that they seemed to bunch out in backs; and these in manner of a * saw engine are tied fast together, being bored through with wide holes, through which (by the meanes of those holes) strong cords are tied, keeping in the whole frame that it start not asunder: * From between those bunches another wooden beam reaching forth overthwart, and in a manner of a wain-beam erected up, is tyed with such devices unto certain ropes, that it may be pulled up higher, or let down lower at ones pleasure; and at the top thereof certain iron hooks are fastned, from which hooks there hanged down a certain sling either of Iron or Tow; under which erected beam, there lieth a great peice of hair-cloath, full of small chaff, tyed fast with cords, and placed upon a bank of turfs, or a heap of bricks. When therefore it cometh to the point of skirmish, a round stone being put into the sling, four young men on one side loosing the beames, into which the ropes are incorporated, do draw back the erected beam unto the hook. Thus at length the master of the engine standing in some high place giving a mighty stroak with a hammer (and as I suppose upon the cord, whereunto the erected beam wast fastned with his hook) setteth open the rails that contain the whole work, insomuch that this erected beam being now at liberty with that quick stroak, and hitting against the soft hair-cloath, it hurleth out the stone, that will batter whatsoever is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur.* It is also called *Scorpio*, because when the long beam or pillar is erected, it hath a sharp top, in manner of a sting. The modern time hath imposed unto it the name of *Onager*, that is a wild Ass, because that wild Asses, when they

* Machinæ Serratoriæ.

* Ab hac mediatare restitum. Here we must note, that this signification of testes is borrowed from the Anatomists, which do call certain eminent parts behind φαλλιδοειδις Testes. Vid. Fuces. Instit. med. l. 1. Sec. 5.

they are courſed by hunters, fling back ſtones with their heels afar off, ſo that oftentimes they pierce the breaſts of them that follow them. The Latine word is made from the Greek ὄνος, *i.e. Aſinus & ἄγρος, rus vel ager.* Now if any ask me, why that ſackeloth, or aſhes was interpoſed, the reaſon is rendred by *Marcellinus*, in two lines, which I purpoſely did not tranſlate in their place, becauſe I would continue the ſenſe without ſuch a long *parenthesis*. The reaſon is there delivered thus; becauſe the violence and force of the erected beam recoiling after it had been by the ſtroke diſcharged, was ſuch that it would ſhake in pieces the ſtrongeſt walls, except there were ſome ſoft thing interpoſed, whereby the forcible ſtrength of the recoil might be by degrees ſhaked. The *Aries* or Ram, is deſcribed alſo by *Marcellinus* in the ſame place. [The Ram was a great tree or beam, *like unto a maſt of a ſhip*, having a piece of iron, in manner of a Rams head, faſtned at the end thereof, therewith they did demoliſh and batter down the walls of a City. It was hung unto a beam, which lay acroſs over a couple of pillars, and hanging thus equally ballanced, it was by force of men pulled backward, and then recoiled upon the walls] The Rams which *Titus* uſed at the ſiege of *Hieruſalem*, ran upon wheels: which kind of Rams are deſcribed by *Joſephus*. There be, ſaith he, other manner of engines, as an iron Ram upon four wheels bound with iron, and faſtned with iron nails, to this they make four feet anſwerable to the bigneſs of the beam, and every beam hath his ſeveral wheel, and when they will batter the wall, certain men firſt pulling it back, they recoil it by the help of four wooden leavers put in the hinder part thereof for that purpoſe. The head of this Ram hath no horns, but is blunt, made of the ſtrongeſt kind of iron, with a wonderful thick neck. They have alſo of both ſides of the Ram a pentice of wood for the ſafeguard of thoſe that recoil it. *Joſephus Ben. Gorion de bello Judaico.* In lieu of theſe Rams another engine was found out cal'd *Helepolis ab inuſitato*

πολις, that is, *capio*, and πόλις, that is, *civitas*: The form of it is to be seen also in *Marcel. ibid.* [There was (saith he) a *Testudo*, or vaulted frame made, strengthned with very long pieces of timber: it was covered over with Ox hides, and green wicker hurdles, the upper part or convex surface thereof was overlaid with mud, to the end that it might keep off the fall of fire and casting of weapons. Now there were fastned in the front of it certain *Cuspides trisulcæ*, that is iron pikes with three edges, very massie, in manner of the thunder-bolts, which painters, and Poets, exhibit unto us: This great engine the Souldiers ruling within with divers wheels and ropes, with main force they thrust it against the walls. [*Malleoli* (saith the same *Marcellinus*) were certain darts, fashioned on this manner; there was an arrow made of a cane, betwixt the head and the neck whereof was fastned an iron full of clefts; arrow, which like unto a womans distaff, on which linnen is spinned, was finely made hollow within the bellow, yet open in many places: In the belly it received fire, with fuel to feed upon; and thus being gently discharged out of a weak bow (for with an over strong shooting the fire was extinguished) if it took fast hold on any place, it burned the same; and water being cast thereon, the fire increased, neither was there any means to quench it, but by casting dust on it.] Now if they could not prevail by these engines cal'd *Machinæ*, then did they make certain passages under ground which they called *Cuniculi*, from *Cuniculus*, signifying a cony-berry; insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare* as it appeareth by that of *d Plutarch*, *Cæsar non jam cuniculis sed machinis tollit rempublicam*, that is, He doth not now covertly, but with open violence assault the common-weal.

d Plutar. in vit. C. Cæs.

CAP.

CAP. 4.
De Pœnis in Hostis devictos.

ALbeit, after the victory, the *Romans* inflicted divers degrees of punishment, according to the malice found in an enemy, yet were they always compassionate, and (as histories testifie) more exorable than any other nation. The punishments which we find them to have used towards a conquered nation are these: Either they punished them by death, or sold them *sub corona*, or dismissed them *sub jugum*, or merced them in taking away their territories; or made them tributary States. *e* An enemy was said to be sold *sub corona*, when he being plac'd in the market-place, a crown was put upon his head in token of such a sale: or therefore certain captives were said to be sold *sub corona*, because at such times they were evironed about with souldiers, to keep them together, and this circle of souldiers, as likewise all other companies is called *Corona*. When they dismissed any *sub jugum*, *f* they erected two spears, with a third lying a cross, in manner of a gallows: then they caused them being disarmed, and their belt taken away, to pass under in token of bondage. When their territories were taken from them, they were commonly conferrep upon old beaten souldiers, in way of remuneration for their faithful service. This transplantation was termed *Coloniæ deductio*; and the place ever after *Romana colonia*, that is, a Roman Colony: at which times they chose out every tenth man, viz. such as were able, and of best sufficiency, to make and establish a publick council, *g* whom they named *Decuriones*. Whence we may observe, that *Decurio* is not always taken for a Captain over ten horsmen, but sometimes, it is used to signifie an *Alderman*, or chief Burgess in a Roman Colony. These Colonies were of two sorts, some called *Coloniæ Latinæ*; others *Italicæ*. The Latine Colonies had *Jus civitatis suffragii, & Magistratus capiendi*,

e A. Gel. 1. c. 4.

f Stad. in Flor l. 1. c. 12.

g Sig. de jur. Ital. l. 2. c. 4.

di, si in sua Colonia magistratum gessissent. Italicis autem, Jus civitatis & suffragii nullum erat, immunes tamen erant: nec tributum aut stipendium pendebant, ut provinciæ solebant. Turneb. adverſ. l. 1. c. 11. Divers times the Romans would be content after the conqueſt to grant to their enemies a peaceable injoying of their lands & poſſeſſions, conditionally that they would yeild all faithful allegiance unto the L. Deputy, whoſoever the *Senate* of *Rome* ſhould place over them. The L. Deputy was either ſtiled by the name of a *Proprætor*, a *Proconſul*, or a *Præfectus* Thoſe places were the two firſt ſorts of governors did rule, were termed *Provinciæ*; the other from the governor was termed *Præfectura*. Where we muſt obſerve that this word *Provincia* had a threefold acceptation. First it is taken for a country, which by the force and power of arms is ſubdued to the Roman Empire, and governed by ſome Roman Deputy ſent from the Senate; and this is the proper and primitive ſignification thereof, it being ſo called, *h Quod populus Rom. eam provicit, id eſt, ante vicit.* Secondly, it is taken for any region or country, where the L. Gen. or chief Captain over a Roman Army doth mannage war againſt any nation by commiſſion from the Senate. Laſtly, it ſignifieth any publick function, or adminiſtration of office, yea any private duty, charge, or task, either undertaken or impoſed; according to that of *i Terence, provinciam cepeſti duram*, that is, thou haſt undertaken an hard task. Now the tribute to be paid, was either certain or uncertain. The certain was properly called *Tributum, vel Stipendium*, and thoſe who paid it were termed *Tributarii ſive Stipendiarii*, and this Tribute was of two ſorts, either ordinary, ſuch as was required from every houſe yearly, even in the time of peace; or extraordinary, ſuch as was levyed by a law, or decree of the Senate towards unexpected charges. The uncertain tribute *k* properly called *Victigal*, was either impoſt-money, ſuch as was collected in haven towns for the tranſportation of Merchants wares, and that was called from *Portus*,

h Pigh. lib. Tyrannif.

i Terent. in Phor.

k Sig. de jur. Rom. l. 1. c. 16.

Portus, *Portorium*, or from *Porta*, *Portarium*, and the receivers thereof *Portitores*. The wares after the impostmony had been paid, were sealed by the *Publicans*, with a certain kind of tempered chalk: and that is that which *Cicero* understandeth by *Asiatica creta. orat. pro Flaceo*: or tythe corn, namely the tenth part of the grain; and that was cal'd from *Decem*, *Decumæ*, and the receivers thereof *Decumani*, though *Decumanus* when it is an adjective, signifieth as much as *Maximus*, according to that of *Ovid. lib. 1. de Trist.*

Qui venit hic fluctus, fluctus supereminet omnes;
Posterior nono est, undecimoq; prior.

l Stadius in Flor. l. 1. c. 13

The reason of this signification is *m* supposed to be, because in *Arithmetick*, amongst simple numbers the tenth is the greatest: or lastly, that money which was paid by certain herdsmen for pasturing their cattel in the Roman fields and forrests: This kind of tribute was called *Scriptura*, and the pastures *Agri Scripturarii*; because (as *n Festus* saith) the Bayliff or receiver of this money, called *Pecuarius*, did *Scribendo conficere rationes*, that is, keep his account by writing: where we must note, first, that all these kinds of Tributes were not only required in Provinces, or Countries subdu'd, but throughout *Italy*, even in *Rome* it self. Secondly, though each collector of these Tributes was distinguished by a peculiar name; yet by a general name they were all called *o Publicani*, in as much as they did take to rent these publick tributes. The chief of them which entred into bond, as the principal takers or farmers of these tributes, *Tully* calleth *Mancipes*. The others, which were entred into the same bond as sureties, were termed *Prædes*. Many times the Romans did bestow the freedom of their City upon forein countries; and the degrees of freedom were proportioned accordingly as the countries were. Some they honoured with the name of Roman Citizens, but excluded them from the right of suffraging, leaving them also to be governed by their own laws and magistrates.

m Fr. Sylv. in viror. illust. op. 2. l. 1.

n Sig. de jur. Rom. l. c. 4.

o Cic de Arusp. respons. & alias sæpe.

This

This state they called a *Municipal* state, in Latine *Municipium*, because they were *Muneris hujus honorarii participes*. p By *Munus honorarium* in this place, is understood nothing but the title of a Roman Citizen, whereby they were priviledged to fight in a legion as free Denisons, not in an Auxiliary band, as the associates. Now the first that ever obtained this Municipal state, were the *Cerites*, who for preserving the holy things of *Rome* in the time of the war against the *Gaules*, were rewarded with the freedom of the City, but without power of suffraging. q From whence it is that those tables wherein the *Censors* inrolled such as were by them deprived of their voices, were called *Cerites tabulæ*; *Horace* calleth such a table *Ceritem ceram*, for the reason shewn before. But we must withall observe, that some Municipal towns have either by desert or instant suit obtained the liberty of suffraging also, which occasioneth that received distinction, that there was *Municipium sine suffragio*, & *Municipium cum suffragio*. Other countries which could not be admitted into the freedom of the City, have obtained, and that not without special and deserved respects, to be associates and confederates unto the state of *Rome*. The inhabitants of such countries were sometimes called *Socii*, sometimes *Amici*, sometimes *Latini nominis socii*, &c. The King or Prince of such a country did style himself *Amicus & Socius Senat. & Pop. Rom.* Here we must observe a difference between *Pactio* and *Fœdus*, both signifying a kind of league. That truce which in time of war is concluded upon, and accepted of both sides for a certain r limited space of time is properly called *Pactio*; we commonly call it *Induciæ*, and it differed from *Fœdus*: ſ First because that *Fœdus* is a perpetual truce or league. Secondly because it was necessary that one of those Heraulds at arms called *Fœciales*, should by a solemn proclamation confirm this league called *Fœdus*, neither of which conditions was absolutely requisite in their truce termed *Pactio*.

p A. Gel. noct. Attic. l. 16. c. 13.

q A. Gel. ib.

r Sig. de jur. Ital. l. 1 c. 1.

ſ Sigon. ib.

CAP.

CAP. 5.

Mulcta militares, quibus milites Romani ob delicta afficiebantur.

TOuching the punishments that the Roman L. General used towards his own souldiers, when they were faulty, they were commonly proportioned unto the fault commited: sometimes they were easie, of which sort were also those punishments which did only brand the souldiers with disgrace: other times they were heavier, such as did hurt and afflict the body. To the first sort belonged these: First *ignominiosa dimissio*, i.e. a shameful discharging of a souldier, when he is with disgrace removed from the army. Secondly, *Fraudatio stipendii*, i.e. a stopping of their pay: and such souldiers which suffered this kind of mulct, were said to be *ære diruti*, [f] because *Æs illud diruebatur in fiscum, non in militis sacculum*. Thirdly, *Censio hastaria*, whereby the souldier was injoyned to resign and give up his spear: for as those which had atchieved any noble act, were for their greater honour *Hasta pura donati*, so others for their greater disgrace were forced to resign up their spear. Fourthly, the whole *Cohors*, which had lost their banners, were compelled to eat nothing but barly bread, being deprived of their allowance in wheat: and every Centurion in that *Cohors* had his souldiers belt or girdle taken from him, which was no less disgrace among them, then it is now amongst us, that a Knight of our order of the Garter, should be deprived of his Garter. Fifthly, for petty faults they made them stand bare footed before the L. Gen. his pavilion, with long poles of ten foot length in their hands: and sometimes in the sight of the other souldiers to walk up and down with turfes on their necks. In the last of these they seemed to imitate their City discipline, wherby malefactors were injoyn'd to take a certain beam, resembling a fork, upon their shoulder, and so to carry it round about the town; it hath some affinity with our carting of queans here in *England*: in the first we have no

[f] Rosin. ant. l. 10. c. 25.

no custom that doth more symbolize, than the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vein, or letting them blood in one of their arms: *t* which kind of punishment was used towards those alone, which (as they conceited, through the abundance of their hot blood) were too adventurous and bold. The heavier kinds of punishments were these; 1. *Virgis, vel fuste cædi*, to be beaten with rods; or with staves and cudgels. None were ordinarily beaten with cudgels, but those who had not discharged their office, in the sending about that table, called *Tessera*, wherein the watch-word was written; or that had forsaken their place, where they were appointed to keep watch; or those who had stolen any thing from out of the camp; or born false witness against their fellows, or abused their bodies by women: or lastly, that had been punished thrice for the same fault: those which were in this manner cudgelled, were often killed in the place, but if they escaped alive, they went to live in perpetual exilement. The ceremony used in this kind of cudgelling was, that the *u* Knight Martial should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staves and cudgels, whence we may say of one that deserveth a good cudgelling in *x Tully* his phrase, *Fustuarium meretur*. *Polyb.* calleth it, ξυλοκοπίαν. *Vid. Lipsi. de milit. Rom. lib. 5. dial.* 18. If a Roman souldier had broken his rank by going out of order, then *Virgis cædebatur*, that is, he was scourged with rods. Sometimes the Knight Martial upon just occasion would cause them to be sold for bondslaves, to be beheaded, to be hang'd. All these punishments were personal or particular; there remaineth one which was general, namely when the fault was general, as in their uproars, conspiracies, &c. Upon such occasions the souldiers were called together, and every tenth man upon whom the lot fell, was punished with that kind of cudgelling above spoken of; all the other escaped either

t Alex. Gen. dier. l. 2. c. 15.

u Trib. milit.

x Cic. orat. Phil. 3.

there without punishment, or with very little. The punishment it self was termed *Decimatio Legionis*, and the reason of this kind of punishment is rendered by *y Tully*, *ut metus viz. ad omnes, pœna ad paucos perveniret.* Sometimes such was the clemency of the L. General, that he would punish only the twentieth, nay the hundreth man, and then it was called *vicesimatio, vel centesimatio legionis.*

y Cic. pro Cluent.

CAP. 6.

De donis militaribus ob rem fortiter gestam.

CConcerning the rewards which were bestowed in war, some were by the Senate conferred upon the L. General: others were by the L. Gen. conferred upon his souldiers. Those honours which the L. General received were three, First, *Nomen Imperatorium*, of which before. Secondly, *Supplicatio*, that is a solemn procession continued for many dayes together, sometimes more, sometimes fewer: all which dayes the Roman people did observe as holy-days, offering up daily prayers and Sacrifices to the Gods in the behalf of their L. Gen. The custom being that after some notable victory the souldiers having saluted their chief Captain (whom I call their L Gen.) by the name of *Imperator*, then would he send letters unto the Senate, dight with Laurel, wherein he required both that name of be confirmed, & approved by them, as likewise that they would *Decernere Supplicationes*, that is, appoint such solemn supplications. Thirdly, they honoured him also at his coming home with a triumph: *Triumphus vel major, vel minor erat*, saith *Alexander*. The lesser kind of triumph was properly called *Ovatio* [illegible] above, from a sheep, which in this time of his triumph, was led before him, and afterward sacrificed by him, as also in the greater triumph (called properly *Triumphus*) the L. Gen. sacrificed a Bull: it differeth from the greater triumph, first, in the acclamation; for in the lesser triumph the souldiers following did as it were redouble this letter O, and some are of opinion that it was there-

fore called *Ovatio*. In the greater triumph the *souldiers* followed, crying, *Io triumpe*, *Io triumphe*: an example
a Ode. a l. 4. whereof may be seen in *a Horace*, where he describeth the tryumph of *Bacchus*, the first Author of this greater
b Salmuth. in Pancir. l. rerum de perd. cap. de triumph. tryumph; from whose *b* name also divers Authors do derive this word *Triumphus*, he being in Greek called Θριαμβος, which by a little change is made *Triumphus*. Secondly, they differed, because in the greater Triumph the L. Gen. did wear a garment of State, called by some
c Alex. Gen. dier. l. 6. c. 17 *Trabea*, *c* by others *Triumphalis*, *Picta vel Aurata vestis*; likewise a garland of Laurel, riding in a chariot, the *Senators* themselves, with the best of the Romans, meeting him, his souldiers with their coronets, their chains, and other rewards following after: but in the lesser triumph the L. General did wear a plain Purple Gown, without
d Dion. Hal. l. 5. any Gold imbroidering, and a garland of myrtle *d* commonly going on foot, sometimes permitted to ride on a horse; the Gentlemen and commonalty of *Rome* alone, without the *Senators*, did meet him. Moreover, for a perpetual memory of this their triumph, in some pu-
e Alex. Gen. dier. l. 1. c. 2. f Serv. Æn. l. 10. blick place certain trophies were erected. *e Trophæum monumentum dixere, nunc marmoreum modo æreum, cum inscriptione & titulis ævo perpetuo duraturis*, *f Dictum est* ἀπὸ τῆς τροπῆς *id est, à conversione*, from making the enemies to retire and turn back. Sometimes there were statues, colums, and arches built, in token of triumph. These arches, though commonly they were known by the name of *Arcus triumphales*, yet sometimes they are
g Fr. Sylv. in orat. Cic. pro Cn. Plancio. called *g Fornices*, whence is it that *Tully* calleth *Fabianum* triumphal arch *Fabianum fornicem*. If it so hapned, that the Roman General himself, personally, did take away any spoiles from the chief Captain of the enemies, then did he hang them up in a temple consecrated to *Jupiter Feretrius*; who was so called, because *h* as the Romans
h Alex. Gen. dier. l. 1. c. 14 conceited, without the special assistance of *Jupiter*, *Dux ducem ferire non poterat*; these spoyles had the name of *Optima spolia*, that is, Royal spoyles. The rewards bestowed

ed upon the souldiers were divers: either places of offices, as the place of a Centurion, of a *Praefectus*, a *Decurio*, &c. or their pay was increased, the spoils distributed amongst them: or lastly, they received certain gifts termed *Dona militaria*. In antient times those souldiers which had best deserved, received a certain measure of corn, called by them *Adorea*, *i* and hence it is that *Adorea* is now used to signifie such laud and praise as is due unto a souldier. But after ages, for the better encouraging of the souldiers, have found out more honourable rewards, of which *k* these were the chiefest; *Armilla*, that is, a bracelet for the hand-wrist; *Torquis*, a chain to wear about their neck; *Phalerae*, horse-trappings; *Hasta pura*, that is, a spear having no iron at the end of it (it is sometimes called *Hasta donatica*, and *Hasta graminea*.) Lastly, *Corona*, *l* crowns of which *Aul. Gel. l.* 5. *c.* 6. observeth these to have been the chief: 1. *Corona triumphalis*, which in old time was made of Laurel, but afterwards of Gold, and thence it was called *Corona aurea*: it was sent by the Senate unto the L. General, in honour of his triumph; Secondly, *Corona obsidionalis*, which was given by the souldiers unto the General when they were freed from a siege; it was made of grass growing in that place where they were besieged, whence it had the name also of *Corona graminea*. Now the reason why they made this crown of grass growing in the place where they were besieged, was thereby to yield up their right in that place unto their Captain: for by that ceremony as *m* *Pliny* observeth, they did *Terra & ipsa altrice humo & humatione etiam cedere*. And hence it is, that in races, and the like masteries, he that was overcome, did gather some of the grass of that place, and gave it unto the conqueror, as a token that he did acknowledge himself conquered; *n* this is the reason of that Adage, *Herbam dare*, that is, to yield the victory. Thirdly, *Corona civica*, which was bestowed only upon him which had saved a Citizens life, *o* though in process of time it was also bestowed upon the L. Gen. if he spared a Roman Citizen when he had power to kill him:

i Alex. Gen. dier. l. c. 18.

k Sig. de jur. Rom. c. 15.

l Rosin. ant. l. 10, c. 17.

m Plin. l. 22. c. 4.

n Salmuth. in Panc. l. rerum de perd. c. de coronis.

o Figh. l. Tyrannaf.

him: It was commonly made of Oak; whence it was called *Corona quercea*. And this I take to be the reason why in *Ovids* time the Emperor had alwayes standing before his gates an Oak tree in the midst of two Laurels, as an emblem denoting two worthy vertues required in all Emperors and Princes: first, such whereby the enemy might be conquered: secondly, such whereby Citizens might be saved. Unto this *Ovid* seemeth to allude, speaking of the Laurel tree,

p Ovid. Met. l. Fab. 9.

p *Postibus Augustis eadem fidissima custos*
Ante fores stabis, mediumq; tuebere quercum.

q Dion. Hal. lib. 10.

Fourthly, *Corona Muralis*. q He only was honoured with this, which did first scale the walls, and enter first into the enemies City: and hence this crown was put upon the circlet, or top, like unto the battlements. Fifthly *Corona Castrensis*, This the L. Gen. bestowed on him which first entred into the enemies tents: it did bear in it the resemblance of a bulwark, or at least of the mound wherewith the bulwark was strengthned: which mound was called in Latine *Vallum*, and thence the crown it self was often called *Vallaris corona*. Sixthly, *Corona navalis*, with which he was honoured, which first entred into the enemies ship in a battle upon Sea: it was portrayed with many ship beakes, called in Latine *Rostra*, r whence the crown it self was often called *Corona Rostrata*. That Roman *Hercules Siccius Dentatus* obtained almost all those several rewards, & that each many times. Lastly, *Corona ovalis*, it was made of Mirtle tree, the L. General used it in the lesser kind of triumphs, called *Ovationis*, from whence the Coronet it self was named *Ovalis*. It was then bestowed, when the Herald had committed some error in denouncing war; or when the enemies conquered were of mean rank and place, as Servants, or Pirats; or else if the victory were gotten without bloodshed, or great hazzard, the enemies yielding without resistance. *In quibus impulvereis & incruentis victoriis, aptam esse Veneris frondem crediderunt, quod non Martius, sed quasi Venereus quidam triumphus foret.*

r Pigh. l. Tyrannus.

s A. G. l. noct. Artic. l. 2. c. 21.

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